



88081674

Circular
5/22/02

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1901				
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June 15		Final proof on granted school sections	30-607	1381
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1902				
July 7		Forest lieu selections	31-372	490
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22		Relinquishment by railroad and wagon road companies for the relief of settlers	31-424	1177
1903				
Mar. 20		Compulsory attendance of witnesses before registers and receivers	32-132	1078
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30		Entry on granted school sections	35-581	1331
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Sept. 11		tions
Dec. 1		Additional homestead entries
		"One-quarter section" defined
1909		
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Apr. 9		claims
May 13		Carey Act selections
21		Extension of time for reclamati
28		under Carey Act
June 1		Railroad rights of way over the pu
14		Exchange of allotments
14		lands
Aug. 11		Restoration of lost or obliterated
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Nov. 3		do
3		Publication of final proof notices
22		Protection of surface rights of e
1910		Notation of rights of way on
Jan. 19		final entry papers
Apr. 1		Applications and selections for
25		and locations upon, unsurveye
June 23		Fees of registers and receivers
July 26		copies of records
29		Notation of rights of way on e
Aug. 4		Reissue and recertification of s
Sept. 8		tional rights discontinued
1911		Carey Act selections
Jan. 10		School selections
23		Withdrawal of Uintah Indian
Mar. 6		Small holding settlers on certain
22		Noting protests on records in
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29		Agricultural entries on coal lar
May 19		Mineral or agricultural claims
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23		Agricultural entries on coal la
26		Withdrawals. Surface rights
28		Compulsory attendance of w
29		registers and receivers
30		Notice to be attached to subp
31		Undisposed of lands in Kiot
32		and Apache Indian Reserva
33		Disposition of tendered recon
34		ented lands
35		Furnishing railroad lists for ta
36		Withdrawal of Shoshone, or V
37		dian lands, Wyoming
38		Fees for certified transcripts
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ant	28-470	1174	Sept. 11		Notice of location of warrants, scrips, etc.	36-567	1304
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ldiers' additional			1909				
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ds, Oregon	31-392	726	June 28		Railroad rights of way over the public lands.	38-44	652
ilitary reservation			June 1		Exchange of allotments, ceded Indian	38-1	1423
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of settlers	31-424	1177	Aug. 11		Restoration of lost or obliterated corners.	38-42	655
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ian occupants	32-132	1078	Nov. 3		Publication of final proof notices.	38-183	1399
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					and locations upon, unsurveyed lands.	38-312	1272
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					Small holding settlers on certain coal lands.	39-150	1082
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					Furnishing railroad lists for taxation purposes		
					Withdrawal of Shoshone, or Wind River, In-		1274
					dian lands, Wyoming.		
					Fees for certified transcripts of records and		
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1912				
Jan. 29		Fort Bridger and other abandoned military reservation lands, Wyoming	40-392	119
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21	90	Indorsements by chiefs of field divisions upon notices of intention to submit proof		1088
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25		Use of vacant ceded Indian lands		669
26	148	Withdrawals during contests		1089
Sept. 20	171	Purchase of supplies		33
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21	183	Modification of outstanding orders of withdrawal	41-345	1588
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21		Protection of surface rights of entrymen	41-358	1408
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23	233	Placer mining claims, Affidavits
30	235	Surveys of forest homesteads
May 9		Taking of depositions
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27	266	Commutation proof—citizen
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6	311	Publication of final proof
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17	332	ship
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28	379	Marriage of female citizen
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			5	345	Surveying within land grants (reimbursable)		553
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13	388	Validation of enlarged homestead entries	44-32	563
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17	402	Petitions for designation under enlarged homestead act	44-68	566
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29	408	Petitions for designation. Ceded Indian lands	44-88	1336
May 10	410	Reporting change of status of entries within national forests	44-121	1005
June 1		Crow Indian lands, Montana. Coal classification	44-121	693
18	416	Modification of right of way regulations of June 6, 1908	44-127	1360
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30	419	Compensation based on cash sales of Indian lands	44-181	36
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10	423	Amendment of entries	44-194	1273
14		Certified copies of homestead-entry papers	44-195	804
15	425	Lands containing kaolin, etc., in Tripp County, S. Dak.	44-195	569
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Sept. 4	435	Joint regulations with Department of Agriculture involving lands in national forests	44-364	1097
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23	438	Report of payments, sec. 5, act of Mar. 4, 1915	44-364	39
23	439	Report of applications held by chief of field division	44-364	39
Oct. 1	441	Circular 333 amended	44-364	1010
9	442	Forest telephone lines	44-364	413
9	443	Forms 4-375 and 4-375a	44-364	741
Nov. 24	448	Indorsements on isolated tract applications	44-364	1098
Dec. 11	449	Registration of notices	44-364	1011
1916				
Jan. 13		Roads, trails, bridges, etc., in national forests	44-513	658
17	455	Exchange of allotments, ceded Indian lands	44-513	1098
Feb. 26	460	Government contests	44-513	1098

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1916		
Mar. 21	464	Service of notice in claim
23		Survey of reclamation lands
25	466	Proof-taking officers to set for proof
Apr. 11		(See Circular No. 402, p. 15)
15	470	Minnesota drainage
May 9	471	Supplemental instruction of Mar. 4, 1915
18		General reclamation circular
June 10	479	Amendment of regulations
27	481	Agricultural entries on certain other mineral
29	483	Receipts for office work
July 8	486	Enlarged homestead act for incontiguous lands
27	492	Leave of absence to homesteaders
Sept. 22	505	Entries for land in more
30		Daily reports
Oct. 2		Opening of Fort Assinibouia military reservation
4	508	Initials to be indorsed on
20	512	Notations on papers
25	513	Instructions governing re
Nov. 23		Eliminations from Carey
Dec. 26	517	segregation or withdrawal of certain lands in North Dakota, and Kansas not designation
1917		
Jan. 12	519	Relief under act of Mar
13	520	Applications for reserve
24	522	Relief of small holdings of grant to Atlantic & Minnesota drainage
26		Cost keeping
Feb. 1	526	Filing of township plats
6	527	Indian occupants of railr
Mar. 12	533	Patents on reclamation e
17	534	Additional entries. Act
19	535	Completion of entries f
20	536	lands, Oregon
24	540	Second homestead entries
Apr. 13	544	1917
16	547	Payments for Fort Peck Ir
21	546	Disposition of surplus from Indian reservation
28	548	Indorsement as to citizen on serial register
July 7	557	Adjustment of conflicting Pacific Ry. lands
30	558	Coal-land regulations
Aug. 4	560	Cost keeping
9	562	Additional application by vicee of deceased hom allowed
		Deposits by individuals in lands

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s within Indian	43-565	368	Mar. 21	464	Service of notice in claims in national forests	43-565	1012
	44-12	456	23		Survey of reclamation lands	44-12	1464
stead entries	44-12	1233	25	466	Proof-taking officers to be notified of date set for proof	44-12	569
osphate, oil, and	44-32	563	Apr. 11		(See Circular No. 402, p. 566)		
ne Indian lands	44-32	1408	15	470	Minnesota drainage	45-40	991
			May 9	471	Supplemental instructions under sec. 5 of act of Mar. 4, 1915	45-84	39
idian homestead		690	18		General reclamation circular	45-385	1199
on phosphate		564	June 10	479	Amendment of regulations of June 6, 1908	45-91	1360
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face of patent	44-43	1097	29	483	Receipts for office work		41
additional entry	44-43	1357	July 8	486	Enlarged homestead act. Additional entries for incongruous lands	45-208	570
	44-66	1564	27	492	Leave of absence to homestead settlers on unsurveyed lands	45-320	573
under enlarged	44-68	566	Sept. 22	505	Entries for land in more than one district	45-486	1100
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ded Indian lands	44-88	136			Opening of Fort Assinniboine abandoned military reservation lands, Montana		3
of entries within		1005	Oct. 4	508	Initials to be indorsed on certain papers		574
a. Coal classifi-		1005	20	512	Notations on papers		45
ty regulations of	44-121	603	25	513	Instructions governing repayments	45-520	1285
of entries within	44-127	1360	Nov. 23		Eliminations from Carey Act applications for segregation or withdrawal	45-585	343
h sales of Indian		1006	Dec. 26	517	Certain lands in North Dakota, South Dakota, and Kansas not subject to enlarged designation	45-585	575
		36	1917				413
	44-181	1460	Jan. 12	519	Relief under act of Mar. 4, 1915		1465
d papers	44-194	1278	13	520	Applications for resurveys. Act of Mar. 3, 1909	45-603	1181
Tripp	44-195	804	24	522	Relief of small holding settlers within limits of grant to Atlantic & Pacific R. R. Co.	45-617	996
		569	26		Minnesota drainage	45-623	45
itting inspection	44-235	1278	Feb. 1	526	Cost keeping	45-648	757
red by allotment		657	6	527	Filing of township plats	46-44	1184
s commissioners		1028	Mar. 12	533	Indian occupants of railroad lands		1241
artment of Agri-	44-350	1007	17	534	Patents on reclamation entries	46-57	576
n heirs	44-360	1097	19	535	Additional entries. Act of Feb. 20, 1917	46-59	728
ct of Mar. 4, 1915	44-364	38	20	536	Completion of entries for Umatilla Indian lands, Oregon	46-70	577
by chief of field		39	24	540	Second homestead entries. Act of Feb. 20, 1917	46-75	705
		39	Apr. 13	544	Payments for Fort Peck Indian lands, Montana	46-79	671
		1010	16	547	Disposition of surplus coal lands restored from Indian reservations		352
		413	21	546	Indorsement as to citizenship to be stamped on serial register	46-98	1186
ct applications		741	23	548	Adjustment of conflicting claims to Northern Pacific Ry. lands	46-131	355
		1098	July 7	557	Coal-land regulations		47
n national forests	44-513	1011	30	558	Additional application by widow, heir, or devisee of deceased homesteader not to be allowed	46-255	578
ded Indian lands	44-505	658	Aug. 4	560	Deposits by individuals for survey of public lands	46-178	47
	44-572	1098	9	562			

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1917				
Aug. 22	564	Military service by homesteaders during war	46-174	761
31	565	Field employees subpoenaed in private contest cases		1102
Sept. 27		Recognition of agents, attorneys, and other persons before the Department of the Interior and its bureaus	46-206	170
Nov. 19	573	Execution of affidavits before commanding officer	46-232	764
20	574	Persons in military service: Installment payments on entries of ceded Indian lands	46-239	766
Dec. 1	594	Potash regulations	46-323	851
7	577	Soldier's additional applications		1874
1918				
Jan. 15	583	Applications filed more than 10 days after their execution	46-278	1102
19	585	Payments on entries of lands in abandoned military reservations made by persons in military or naval service	46-279	767
Feb. 18	590	Military service of desert land entrymen during the war with Germany	46-294	767
Mar. 21	594	Potash regulations	46-323	851
Apr. 22		Opening of Flathead Indian lands, Montana		696
May 16	600	Instructions under soldiers' and sailors' civil relief act	46-383	769
June 28	605 1/2	Amendment of Minnesota drainage regulations	46-419	998
July 17	611	Exchange of Oregon & California Railroad grant lands	46-424	1045
Aug. 9	616	Accounts circular	46-513	48
12	613	Practice to be followed in connection with proofs in forest homestead cases		1013
13	617	Minnesota drainage: Proceedings after expiration of period of redemption	46-438	998
14	618	Lands within national parks: authorization of notice		1016
Oct. 9	622	Special privileges of certain soldiers under public land laws	46-451	770
Dec. 20	629	Applications for resurveys: Act of Sept. 21, 1918	46-504	1468
1919				
Jan. 13	630	Deposits for resurveys, act of Sept. 21, 1918		124
Mar. 21	636	Coos Bay wagon-road lands	47-53	1047
25	636	Prolonged absence from homesteads on account of climatic conditions	47-95	579
26	636 1/2	Sale of ceded Chippewa isolated tracts, Minnesota	47-57	680
Apr. 8	637	Final certificates on reclamation entries		1241
8	638	Reservoirs for watering stock on unsurveyed lands	47-117	1361
8	639	Contests of certain lands within former Kiowa, Comanche, and Apache Indian Reservations, Oklahoma	47-118	717
May 2	643	Relief of settlers upon certain railroad lands in the State of Montana	47-138	1187
6	645	Castle Peak irrigation project, Utah	47-144	1242
23		Withdrawal of Cheyenne River and Standing Rock Indian lands, North and South Dakota		674

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Date	No.	Subject
1919		
June 9	647	Installment payments required with homestead and of period of military or naval service
24	648	Approximation abolished soldiers' additional home
Aug. 22	655	Date for abolishing approval
Sept. 10	656	Time for discharged soldiers' return to homesteads
Oct. 13	658	Desert land applications
15	659	Regulations of June 23, 1918
Nov. 3		Free use of timber: Act of Stat. 1321)
3		Free use of timber: Act of Stat. 1322)
19	662	Disposal of lands in Gila military reservation, Arizona
Dec. 13	664	Price of lands within grazing roads
1920		
Jan. 23	667	Payments for Fort Peck Indian lands
Mar. 1		Patents for lands in towns resurvey
11	671	Oil shale leases
11	672	Oil and gas permits and leases, 29, 1920)
27	677	Opening of Date Creek reservation
Apr. 1	679	Coal mining leases, permit
13	682	Indorsement to be made notice for chief of field
May 19	695	Fees for expert testimony examiners
22	696	Phosphate leases and use
26	697	Petition for designation stock-raising homestead
26	698	Extensions of time for public land laws, Washington
June 7	700	Amending paragraph 74 of circular
22	705	Disposition of Oregon & Coos Bay wagon-road lands
28	706	Sale of isolated tracts of Indian lands, North Dakota
July 7	709	Sale of isolated tracts of Railroad grant lands
Aug. 2	715	Paragraph 100, Circular
11	716	Amending paragraphs 41 reclamation circular
Oct. 6		Agricultural claims in co-leases, or subject to
13	726	Certification of abstracts
29	672	Oil and gas permits and
Nov. 13	728	Limiting time for filing a
20	729	ment
Dec. 10	731	Section 24 of Federal water Preference right of entry Act lands

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Homesteaders during war	46-174	761	1919				
ed in private contest		1102	June 9	647	Installment payments required in connection with homestead and other entries after period of military or naval service	47-191	774
Attorneys, and other			24	648	Approximation abolished as applied to soldiers' additional homestead entries	47-205	1375
Department of the	46-206	170	Aug. 22	655	Date for abolishing approximation changed	47-206	1377
us.			Sept. 10	656	Time for discharged soldiers and sailors to return to homesteads	47-257	775
before commanding	46-232	764	Oct. 13	658	Desert land applications		414
service. Installment			15	659	Regulations of June 23, 1910, amended	47-257	1388
ceded Indian lands	46-239	766	Nov. 3		Free use of timber. Act of Mar. 3, 1919 (40 Stat. 1321)	47-295	1511
ations	46-323	851	3		Free use of timber. Act of Mar. 3, 1919 (40 Stat. 1322)	47-296	1510
		1374	19	662	Disposal of lands in Gig Harbor abandoned military reservation, Washington		15
than 10 days after	46-278	1102	Dec. 13	664	Price of lands within granted limits of railroad	47-260	125
lands in abandoned			1920				
made by persons in	46-279	767	Jan. 23	667	Payments for Fort Peck Indian lands, Montana	47-335	707
ce.			Mar. 1		Patents for lands in townships suspended for resurvey	47-342	1471
sert land entrymen	46-294	767	11	671	Oil shale leases	47-424	862
ermany	46-323	851	11	672	Oil and gas permits and leases (Revised Oct. 29, 1920)	47-437	868
ianlands, Montana		696	27	677	Opening of Date Creek abandoned military reservation		2
ldiers' and sailors'	46-383	769	Apr. 1	679	Coal mining leases, permits and licenses	47-439	369
ota drainage regula-			13	682	Indorsement to be made on copy of proof notice for chief of field division		580
California Railroad	46-419	998	May 19	695	Fees for expert testimony by former mineral examiners	47-513	906
	46-424	1045	22	696	Phosphate leases and use permits		581
d in connection with	46-513	148	26	697	Petition for designation of lands under the stock-raising homestead law	47-400	691
stead cases		1013	June 7	700	Amending paragraph 74 of general reclamation circular	47-411	1050
Proceedings after	46-438	998	22	705	Disposition of Oregon & California Railroad grant and Coos Bay wagon road grant lands	47-416	702
f redemption			26	706	Sale of isolated tracts of Fort Berthold Indian lands, North Dakota	47-418	1052
authoriza-		1016	28	709	Sale of isolated tracts of Oregon & California Railroad grant lands		125
soldiers under	46-451	770	Aug. 2	715	Paragraph 100, Circular 616, modified		1243
ys. Act of Sept. 21,	46-504	1468	11	716	Amending paragraphs 41 and 76 of general reclamation circular	47-474	913
			Oct. 6		Agricultural claims in conflict with permits or leases, or subject to preferential rights	47-437	868
act of Sept. 21, 1918.		124	13	726	Certification of abstracts	47-594	1292
ands.	47-53	1047	29	672	Oil and gas permits and leases	47-595	521
m homesteads on ac-	47-95	579	Nov. 13	728	Limiting time for filing application for repayment	47-605	345
ditions			20	729	Section 24 of Federal water power act		
seaward isolated tracts,	47-57	680	Dec. 10	731	Preference right of entry on restored Carey Act lands		
clamation entries		1241					
g stock on unsurveyed	47-117	1361					
lands within former							
and Apache Indian	47-118	717					
certain railroad lands in	47-138	1187					
and	47-144	1242					
project, Utah							
ine River and Stand-							
ards, North and South		674					

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Date	No.	Subject	L. D.	Page
1921				
Jan. 22	733	Receipts under mineral leasing act		126
Feb. 21	737	Cutting of timber by corporation organized in one State and conducting business in another	48-17	1512
26	736	Transmittal of petitions to designate		582
Mar. 7	738	Amendment stock-raising homestead application and affidavit		583
28	743	Receipts under mineral leasing act		126
Apr. 2	745	Proof on homesteads by incapacitated soldiers	48-54	775
4	746	Validation of enlarged homestead entries	48-57	584
7	747	Paragraphs 239 and 244, Circular 616, modified		127
16	750	World War terminated to certain intents	48-78	777
20	751	Extensions of time for payments for Cheyenne River and Standing Rock Indian lands, North and South Dakota	48-80	675
23		Designation of land as structure of producing oil or gas field after filing of application for permit	48-98	915
29	752	Disposal of certain lands in Gig Harbor abandoned military reservation, Washington	48-100	584
May 2	753	Intermarriage of homesteaders	48-106	584
16	756	Amending section 23 and revoking section 24 of general reclamation circular	48-113	1246
16	757	Easement for ditch riders' stations	48-113	1362
June 15	761	Reward for discovery. Amendment of Circular 672	48-152	916
18	759	Amending paragraphs 13, 14, and 16, and revoking paragraph 15, of general reclamation circular	48-153	124
27	762	Per diem in lieu of subsistence		126
Aug. 2	767	Amendment of defective contest affidavits	48-166	777
4	768	Administrative order involving State, railroad, and lieu selections, etc.	48-172	159
6	769	Contests to be assigned district land office numbers		1104
6	770	Amendment of Circular 486	48-174	586
Sept. 22	777	Applications for copies of records	48-212	1280
Oct. 8	783	Applications alleging settlement prior to driveway withdrawals	48-220	586
14	785	Noncompliance with terms of permit	48-234	917
14		Withdrawal of Flathead Indian lands, Montana		699
19	784	Excess payments		587
Dec. 5	793	Action on applications to contest		1104
8	795	Rental deductions in oil and gas leases	48-340	917
20	796	Reduction of required area of cultivation		587
1922				
Jan. 21	802	Bills of lading		123
Feb. 9	807	Forms for final proofs on stock-raising homestead entries	48-438	588
14	808	Opening of certain lands in New Mexico		589
15	809	Circular 679 amended	48-439	382
18	810	Contests against stock-raising homestead entries based on allegations of fraud and misrepresentation in securing designation	48-454	583
20	811	Itemized statements by oil and gas lessees		918
27	813	Reference to serial numbers to be given		128

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Date	No.	Subject
1922		
Mar. 22	817	Change of entries
28	818	Cutting of timber in Arizona
31	819	Relinquishment of encumbrance to mortgagee
Apr. 7		Oil prospecting permit in power
8		Showing to be made by nonresident in certain States
11	430	United States mining regulations
12	820	Relinquishments with repayment
29		General determination under Federal water power act as
May 10	822	Certain discharged soldiers a preferred right of homestead entry
2	263	Homestead entries within
13	825	Disposal of certain lands in Arizona to occupants thereof
19	826	Sec. 2296, United States Reclamation Act made applicable to all homestead entries
26	828	Reports of expenditures
29	830	Proofs upon reclamation desert land entries by incipient
June 21	836	Officers and employees and their families to be interested in disposition of lands
July 19	839	Pending cases
Aug. 1	841	Delinquencies in keeping accounts
12	845	Oil and gas permits and leases
Sept. 11	847	Continued use of certain unperfected claims
12	504	Cost of certified copies of records
13	849	Small holding claims in New Mexico
19	850	Exchange of lands in certain States
22	852	Eastern Saline Reserve, Oklahoma
Oct. 11	857	Citizenship of married women
17		Board of equitable adjudication
31	860	Acting registers
Nov. 6	861	Final proofs submitted in advance
13	862	Circular 861 to apply to desert lands
18	864	Lands erroneously meandered
Dec. 14	866	Classification of expenditure
30	869	Forest lieu selections. Circular 616
1923		
Jan. 9	867	Exchange of lands in certain States
19		Withdrawal of land for reclamation
Feb. 5	872	Amending Circular 864
17	873	Exchange of lands within a State
20		Forest, Oregon
24	874	Exchange of Santa Fe Pacific lands in Mohave County, Arizona
Mar. 3	780	Refunding prepaid rentals or deposits
7	876	Additional stock-raising applications
7	877	Oil and gas permits and lease line of Red River, Oklahoma
		Deposits. Modification of Circular 616

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ing business in		583
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Dakota		
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ig of application	48-98	915
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Indian lands, Mon-	48-234	917
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		587
contest		1104
d gas leases	48-340	917
of cultivation		587
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lock-raising home-		
New Mexico	48-438	588
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	48-439	382
ing homestead en-		
of fraud and mis-		
g designation	48-454	588
and gas lessees		918
s to be given		128

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1922				
Mar. 22	817	Change of entries	48-595	452
28	818	Cutting of timber in Arizona	48-608	1513
31	819	Relinquishment of encumbered land. No-		
		tice to mortgages	48-613	1106
Apr. 7		Oil prospecting permit in power-site reserves	48-628	919
8		Showing to be made by nonmineral claimants		
		in certain States	48-629	1414
11	430	United States mining regulations	49-15	807
12	820	Relinquishments with repayment cases	48-629	1284
29		General determination under section 24 of		
		--Federal water power act as to certain lands		523
May 18	822	Certain discharged soldiers and sailors given		
		a preferred right of homestead or desert		
		land entries	49-1	779
2	263	Homestead entries within national forests	49-9	539
13	825	Disposal of certain lands in Coconino County,		
		Ariz., to occupants thereof		299
19	826	Sec. 2296, United States Revised Statutes,		
		made applicable to all homestead entries	49-114	593
26	828	Reports of expenditures		129
29	830	Proofs upon reclamation homestead and		
		desert land entries by incapacitated soldiers	49-135	787
June 21	836	Officers and employees and their wives not to		
		be interested in disposition of the public		
		lands	49-152	1031
July 19	839	Pending cases		1106
Aug. 1	841	Delinquencies in keeping accounts		129
12	845	Oil and gas permits and leases in Alaska	49-207	185
Sept. 11	847	Continued use of certain unofficial forms		593
12	504	Cost of certified copies of records and papers	49-274	1280
13	849	Small holding claims in New Mexico	49-275	397
19	850	Exchange of lands in certain counties in New		
		Mexico	49-281	467
22	852	Eastern Saline Reserve, Okla.		1039
Oct. 11	857	Citizenship of married women	49-316	352
17		Board of equitable adjudication	49-323	311
31	860	Acting registers		130
Nov. 6	861	Final proofs submitted in advance of natural-		
		ization		594
13	862	Circular 861 to apply to desert land proofs		414
18	864	Lands erroneously meandered and shown on		
		plats as water covered		303
Dec. 14	866	Classification of expenditures		132
30	869	Forest lieu selections. Certain rights revived	49-383	497
1923				
Jan. 9	867	Exchange of lands in certain national forests		
		in Washington		471
19		Withdrawal of land for resurvey	49-413	1592
Feb. 5	872	Amending Circular 864		305
17	873	Exchange of lands within Malheur National		
		Forest, Oreg.	49-448	472
20		Exchange of Santa Fe Pacific Railroad Co.		
		lands in Mohave County, Ariz.	49-451	1189
24	874	Refunding prepaid rentals on oil and gas lands	49-459	919
Mar. 3	780	Additional stock-raising applications		595
7	876	Oil and gas permits and leases south of medial		
		line of Red River, Okla.	49-467	920
7	877	Deposits. Modification of par. 84, Circular		
		616		133

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Date	No.	Subject	L. D.	Page
1923				
Mar. 9	879	Confirmation of entries		411
10	880	Iron posts in forest homestead-entry surveys		1472
14	881	Measure of damages in trespass cases	49-484	1571
20	882	Depositing disbursing balances		134
23	885	Register's returns to be made semimonthly		134
30	886	Designation of entered lands within national forests	49-506	595
Apr. 7		Kinkaid entries	49-528	597
9	888	Exchanges involving Lincoln National Forest, N. Mex.	49-529	473
16	889	Reinstatement of canceled entries	49-535	1107
23	890	Exchanges in Glacier National Park, Mont.	49-536	475
23	891	Suspension of final proofs on homestead entries to await naturalization of entrymen	49-538	593
May 3	893	Fencing of stock-watering reservoirs	49-577	1295
8	894	Officers authorized to administer oaths in public-land cases	49-586	1032
19		Withdrawal of land for resurvey	49-597	1593
June 1	896	Disposal of Vashon Island abandoned military reservation, Washington		19
July 11	900	Exchanges involving Rainier National Forest, Wash.	49-645	477
Aug. 29	903	Hours of labor; leaves of absence		534
Sept. 10	904	Fees for carbon copies of testimony in contest cases	50-133	136
19		Descriptions of land in final certificates and patents		1108
21		Reduction of required area of cultivation on entries under sec. 6 of enlarged homestead act		600
Oct. 15	905	Identification of lands in Alaska	50-155	923
30		Sale of lots in Harding, Fla.		1552
Dec. 4	907	Vouchers for payment by special disbursing agents		136
29	909	Measure of damages in trespass cases	50-223	1573
1924				
Feb. 2		Regulations of Oct. 30, 1923, amended		1553
2	911	Closing of contests		1109
2	913	Land in petroleum reserves not subject to stock-raising entry	50-261	600
4	919	Fees for national forest exchanges	50-263	503
5	915	Notation of cancellations	50-299	1231
20	917	Issuance of final certificates on combined final homestead proofs		601
28		Wages of temporary field assistants		137
Mar. 13	922	Circular 679 amended	50-320	533
14	920	Additional homestead applications. Act of Apr. 23, 1904		602
17	921	Examination of records before allowing entries		1109
21		Carey Act statutes and regulations		347
22	923	Amending paragraph 282, Circular 616	50-323	137
29	925	Potash regulations amended	50-333	925
Apr. 23	929	Notation of cancellation of oil and gas permits	50-337	926
28	931	Northern Pacific Railroad (now Railway) grant land	50-399	1190
28	932	Rights of settlers under oil leasing act	50-400	926
May 9		Compensation of field assistants in Alaska		133
14	935	Notices of filing of plats and opening of lands to entry		753

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Date	No.	Subject
1924		
May 20	474	Desert-land entries and procedure (18, 1928)
23	936	Potash regulations amended
26		Confirmation of reclamation entries
28	939	Notation of cancellation of entries
June 13	942	Forest homestead entry survey
18	943	Charge for publication of cases
19	944	Extensions of time for payment of Berthold Indian lands, N. Mex.
25		Fort Peck Indian lands, Mont. as coal lands after entry
26		Circular 423 amended
28	947	Reports on applications for practice before local land office
July 5		Supplemental patent with condition for State indemnity
11	949	Contests against homestead charge of abandonment
16	950	Sale of Flathead villa sites
19	953	Coal mined under pending lease or permit
22	954	Extension of time for payment of Assiniboine lands in Montana
23	956	Railroad selections
29	955	New form of pay roll
Aug. 19	960	Assignment of part of oil and gas given new serial number
Sept. 24	961	Survey of potash lands
Oct. 22	963	Officials having jurisdiction over other lands (revised Nov. 10, 1924)
Nov. 10	964	Exchanges involving Utah Parks, Utah
11		School land grant. Mine
13	966	Notation of cancellation of proofs upon claims under combined incapacitated soldiers
21	805	Change of entries
Dec. 3	967	Minnesota drainage. Proportion of period of redemption
9	969	Sale of Kiowa, Comanche Indian lands, Oklahoma
20	971	
1925		
Jan. 2	523	Stock-raising homestead entries
Feb. 11	977	Lots in Pensacola, Fla.
11	978	Additional entries in Montana
12	979	Notation of cancellation of entries in Alaska
13		Abstracts of title
Mar. 12	983	Land in petroleum reserve stock-raising entry
14	982	Approval of vouchers
17	985	Paragraph 233, Circular 6
20	863	Consolidation of national forest exchanges involving San Juan, New Mexico
21	993	Payments required for lands, Montana
24	986	Grants of land to aid in construction of railroads and other purposes
28	988	

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			1924				
ad-entry surveys		411	May 20	474	Desert-land entries and proofs (revised Dec. 18, 1923)		415
pass cases	49-484	1472		23	Potash regulations amended	50-503	928
ces		1571		26	Confirmation of reclamation homestead entries	50-506	1247
le semimonthly		134		23	Notation of cancellation of oil and gas permits	50-509	929
s within national		134	June 13	942	Forest homestead entry surveys		1473
	49-506	595		18	Charge for publication of notices in mining cases	50-556	844
National Forest,	49-528	597		19	Extensions of time for payments for Fort Berthold Indian lands, North Dakota	50-557	703
entries	49-529	473		25	Fort Peck Indian lands, Montana, classified as coal lands after entry		709
nal Park, Mont.	49-535	1107		26	Circular 423 amended		289
on homestead en-	49-536	475		28	Reports on applications for admission to practice before local land offices		174
on of entrymen	49-538	598	July 5	947	Supplemental patent without coal reservation for State indemnity selections	50-572	1388
eservoirs	49-577	1295		11	Contests against homestead entries on the charge of abandonment	50-575	789
minister oaths in	49-586	1032		16	Sale of Flathead villa sites, Montana		700
urvey	49-597	1593		19	Coal mined under pending applications for lease or permit		384
abandoned mili-		19		22	Extension of time for payments for Fort Assiniboine lands in Montana	50-586	6
r National Forest,	49-645	477		23	Railroad selections	50-587	1191
bsence		534		29	New form of pay roll		138
testimony in con-	50-133	136	Aug. 19	960	Assignment of part of oil and gas lease to be given new serial number		930
al certificates and		1108	Sept. 24	961	Survey of potash lands	50-644	1473
of cultivation on		600	Oct. 22	963	Officials having jurisdiction over State and other lands (revised Nov. 1929)		1032
enlarged home-		923	Nov. 10	964	Exchanges involving Utah and Zion National Parks, Utah	50-662	478
aska	50-155	1552		11	School land grant. Mineral indemnity	50-668	1389
special disbursing		136		13	Notation of cancellation of oil and gas permits	50-669	931
sv cases	50-223	1573		21	Proofs upon claims under desert land laws by incapacitated soldiers	50-674	790
23, amended		1553	Dec. 3	967	Change of entries	50-684	454
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7	994	Disposal of certain lands in Wisconsin.	51-107	1583
7	995	Placer mining claims, Alaska.	51-111	845
7	996	Reorganization of surveying service.	51-112	1474
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25	1000	Sale of Flathead villa sites, Montana.		701
May 1	1005	Evidence regarding citizenship in public land cases.	51-134	353
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18	1003	Amending section 38 of circular of June 6, 1908.	51-147	1362
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16	996	Reorganization of surveying service.		1478
16	1017	Sale of lots in Hays and Lodge Pole, Mont.		1554
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27	1028	Use of lands withdrawn as public water reserves.	51-186	1296
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31	1037	Homestead entrymen under showings by applicants for restoration to entry certain lands reserved for reservoir purposes.
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11	1048	Free use of timber under oil leasing permits and leases to lessees.
22		Issuance of patent on a transferee.
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25	851	Timber and stone regulations.
27	1052	Sale and removal of pine timber in Indian lands, Minnesota.
Mar. 13		Reports by Geological Survey selections, applications, sale of lots in Sanish, N. I.
18	1054	Protests and complaints.
22		Potash regulations amended.
27	1056	Field offices not to close or Numbering contracts.
Apr. 5	1060	Sale of lots at Chesterfield, Idaho.
10	1064	Disposal of certain lands.
May 15	1065	Naval Reserve, La.
25	1066	Selections, filings, or entries containing springs or water.
25		File numbers.
28	1068	Repeal of change of entry.
June 8	1070	Commissions on Indian land.
9	1069	Limitations of holdings under mineral leasing law.
18	1073	Acting registers, authorize oaths at any time in public.
24	1074	Fort Hall Indian lands, Idaho to section 2455 United States.
26		Fees of witnesses.
29	1075	Period for filing on dis Indian Reservation, Wash.
July 1		Per diem in lieu of subsistence.
3		Rights of way for canals, etc.
8	1076	Voices.
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22	1095	Working rule in connection with Circular 1066	51-597	1200
23	1094	Leases as a reward for discovery	51-597	939
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19	1099	Oil and gas permit applications made by attorneys in fact	51-602	943
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22	1104	Sulphur mining leases and prospecting permits in Louisiana	51-647	944
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28	1116	Sale of lots in addition to Algoma, Oreg.		1547
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27	1125	Furnishing lists of plat n and attorneys
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28	1127	Applications for reduction royalty in oil and gas k
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UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE

CIRCULARS AND REGULATIONS OF
THE GENERAL LAND OFFICE

WITH REFERENCE TABLES
AND INDEX

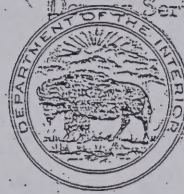
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C. G. FISHER OF THE GENERAL LAND OFFICE

JANUARY, 1930

BUREAU OF LAND MANAGEMENT

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GOVERNMENT PRINTING OFFICE
WASHINGTON: 1930

1 LD 654

REVISED REGULATIONS RELATIVE TO SOLDIERS' AND SAILORS' ADDITIONAL HOMESTEAD ENTRIES.

Commissioner McFarland to registers and receivers, February 13, 1883.

Section 2306 of the Revised Statutes of the United States, provides that any person entitled to make a homestead entry under section 2304 (providing for the benefit of soldiers and sailors of the late war), who had, prior to June 22, 1874, made a homestead entry of less than 160 acres, may enter an additional quantity of land sufficient to make, with the previous entry, 160 acres.

The right granted by this section, and extended by section 2305 to the widow, if unmarried, or otherwise to the minor orphan children by proper guardian, is a *personal* one and is not transferable, nor subject to assignment or lien, nor can it be exercised by another. It can lawfully be exercised only by the soldier or sailor, or by the widow or guardian, as the case may be, in his or her own proper person.

The practice which has hitherto prevailed of certifying the additional right as information from the records of this office and permitting the entry to be made by an agent or attorney is hereby discontinued.

The following regulations will hereafter be strictly observed:

1. The party desiring to make an additional entry, and being entitled thereto, must present himself at the land office of the district in which the land he wishes to enter is situated, and make his application in the same manner as in case of an original entry. (Form No. 4-008.)

2. In addition to the usual homestead affidavit the claimant must make a special affidavit showing—

First. His identity as the soldier he represents himself to be, reciting his military service, and stating his present residence and post-office address.

Second. The facts, in detail, respecting his right to make the additional entry, and that he has fully complied with the provisions of the homestead laws in the matter of residence upon, and cultivation and improvement of his original entry, and whether or not he has proved up his claim and received a patent for the land.

Third. That he has not in any manner previously exercised his additional right either by entry or application, or by sale, transfer, or power of attorney, but that the same remains in him unimpaired.

3. The foregoing affidavits must be sworn to *and subscribed* in the presence of the register or receiver. This rule must be strictly adhered to in order to avoid false personation; and applications and affidavits presented to the register and receiver with signatures attached *will not be received*. Department circulars of May 17, 1877, and September 1, 1879, are modified accordingly.

4. These rules will not be deemed to apply to cases where the additional right has heretofore been certified by this office, nor to cases now pending, or which may be filed in this office prior to March 16, 1883.

Approved.

H. M. TELLER,
Secretary.

LANDS IN ALABAMA—COAL AND IRON.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 9, 1883.

GENTLEMEN: The act of March 3, 1883 (copy herewith), enacts that all public lands within the State of Alabama, whether mineral or otherwise, shall be subject to disposal *only as agricultural lands*; provided, that all lands which have heretofore been reported as containing coal and iron shall first be offered at public sale, and, further, that any *bona fide* entry under the provisions of the homestead law of lands within said State *heretofore made* may be patented without reference to the act of May 10, 1872, in cases where the persons making application for such patents have in all other respects complied with the homestead law relating thereto.

In order to carry out the provisions of said act, it will be necessary to prepare a list of all public lands heretofore reported as mineral that have not been entered, and have them offered by President's proclamation. In the mean time you will be careful not to allow an entry to be made for any lands, lists of which were transmitted to your office October 23, 1879, nor of other tracts that have been since investigated and reported as valuable for minerals, a list of which I inclose herewith.

All existing *bona fide* entries, under the homestead laws, may be perfected regardless of the mineral character of the land, in accordance with rules and regulations governing the same.

Any contest pending before you where the *only* allegation is the mineral character of the land must be dismissed.

The law requires the offering to embrace all lands heretofore reported as containing coal or iron which remain undisposed of by entry or sale.

Entries, whether by cash or location, already allowed and reported to this office will be examined and disposed of upon their merits without reference to the question of mineral.

Very respectfully,

N. C. McFARLAND,
Commissioner.

To DISTRICT LAND OFFICERS,
Montgomery and Huntsville, Ala.

Approved.

H. M. TELLER,
Secretary.

1 LD 655

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Commissioner.

To DISTRICT LAND OFFICERS,
Montgomery and Huntsville, Ala.

Approved.

H. M. TELLER,
Secretary.

From the foregoing, I am of the same opinion, and in disposing of the matter I have to state, that, without specific instructions from this office or the Department, neither the register nor the receiver can legally take testimony, or preside at the taking thereof, in any place other than the place wherein the office to which such register or receiver is attached is located, which, in the present instance, is Valentine, Nebr.

If the practice were permitted allowing local officers, or either of them, to take testimony elsewhere, it would doubtless give ground for ill-feeling on the part of those who the law provides may take testimony, in numerous cases, and be looked upon as an intrusion into their jurisdiction and perhaps give cause for numerous and serious complaints.

Your attention is called to circular letter M, dated March 23, 1883, copy herewith, in relation to fees, and also called to instructions issued by this office January 29, 1884, to the register and receiver at Huron, Dak. (Copp's L. O., vol. 10, p. 355), wherein the subject of illegal fees is fully discussed.

You will, therefore, be governed in accordance with the foregoing, and it is hoped that the act of taking testimony elsewhere than at Valentine will not be repeated.

9. RATES OF ADVERTISING.

Commissioner McFarland to registers United States land offices, January, 1884.

It having come to the knowledge of this office that excessive charges are made by the proprietors of newspapers in certain States and Territories, for the publication of notices of intention to make final proof under act of March 3, 1879, you are directed hereafter, in designating papers in which such notices shall be published, to designate only such reputable papers of general circulation nearest the land applied for, the rates of which do not exceed the rates established by State or Territorial laws for the publication of legal notices.

Approved by Secretary Teller, January 30, 1884.

10. FAILURE TO APPEAL IN TIME.

Commissioner McFarland to registers and receivers United States land offices, July 23, 1883.

GENTLEMEN: Great delay in adjudicating cases frequently arises from the neglect of local officers in not promptly reporting, at the expiration of the time allowed, whether or not appeals have been filed from decisions of this office. The same is true in cases of amendments.

→
2 LD 205

Driscoll shows that he has continued to reside on and cultivate the tract from the time of his settlement as required by law, which showing was not contradicted.

Forbes pleaded as an excuse for his non-residence, temporary sickness in his family, which lived at Omaha, Nebraska; but he failed to explain why he omitted to evidence his intentions as a *bona fide* pre emptor by residing on the tract and sustaining his identity as a settler, so as to negative the indication of abandonment. Prior to Driscoll's settlement there were ample opportunities presented, when Forbes could have shown a reasonable compliance with the law. When he settled on the tract he was aware of the fact that his business would necessitate his absence at times; but no satisfactory excuse is given for his neglect of the place during the periods of his presence in the vicinity, at which time it is shown that he preferred to reside at Deadwood.

The law requires the pre-emption settler to make final proof and payment within a time certain; Forbes did not give notice of final proof until after such time had expired.

To my mind it is clearly apparent that Forbes did not exercise sufficient good faith prior to Driscoll's settlement to negative the conclusion that he had abandoned the place; this, however, was not alone considered by me in examining the record hitherto. Although not expressed, all the facts were taken into consideration; but it was determined that the facts then stated were sufficient to conclude Forbes and sustain the settlement of Driscoll.

Forbes was not prevented by Driscoll from exercising his prerogatives as a pre-emption settler; Driscoll found the cabin unoccupied and in an abandoned condition, and under his purchase he maintained his possession of it. Forbes chose to pursue a certain plan of action, in the consummation of which he failed to comply with the law; in view of the adverse intervening claim of Driscoll, I am prevented from administering the relief he requests.

INDIAN OCCUPANTS.

CIRCULAR.*

Commissioner McFarland to registers and receivers, May 31, 1884.

Information having been received from the War Department of attempts of white men to dispossess non-reservation Indians along the Columbia River and other places within the Military Department of the Columbia of the land they have for years occupied and cultivated, and similar information having been received from other sources in reference to other localities where land is occupied by Indians who are making

* Unintentionally omitted from last volume.

efforts to support themselves by their own labor, you are hereby instructed to peremptorily refuse all entries and filings attempted to be made by others than the Indian occupants upon lands in the possession of Indians who have made improvements of any value whatever thereon.

In order that the homes and improvements of such Indians may be protected, as intended by these instructions, you are directed to ascertain, by whatever means may be at your command, whether any lands in your district are occupied by Indian inhabitants, and the locality of their possession and improvements as near as may be, and to allow no entries of filings upon any such lands. When the fact of Indian occupancy is denied or doubtful, the proper investigation will be ordered prior to the allowance of adverse claims. Where lands are unsurveyed no appropriation will be allowed within the region of Indian settlements until the surveys have been made and the land occupied by Indians ascertained and defined.

(Approved May 31, 1884, by Secretary Teller).

TIMBER CULTURE—BREAKING; CONTEST.

PECK v. TAYLOR.

Where the affidavit in a timber-culture contest failed to show the continuance to date thereof of the alleged failure to break and plant, as required in *Worthington v. Watson*, advantage of the defect may be taken only at the hearing.

Where eight and three-quarter acres only were broken during the first two years, by mistake, and there was no evidence of bad faith, it is not ground for forfeiture.

Acting Secretary Joslyn to Commissioner McFarland, February 2, 1885.

I have considered the case of *Rollin A. Peck v. Frank A. Taylor*, involving timber-culture entry No. 1852, August 20, 1879, Springfield, now Mitchell, Dakota Territory, for the NW. $\frac{1}{4}$ of Sec. 23, T. 104, R. 61, being on appeal from your decision of May 20, 1884, holding Taylor's entry for cancellation.

It appears from the papers that contest affidavit was filed against said entry by Peck December 27, 1882, the allegations being that defendant "had failed to break ten acres during the first two years subsequent to entry, and failed to plant to trees, seeds or cuttings five acres during the third (year) subsequent to entry, as is required by law." Non-residence being alleged, notice was given by publication, and hearing held April 25, 1883, at which both parties were present and submitted testimony.

The affidavit of contest is defective in not charging the continuance of the alleged defaults up to the date of its filing. Had the claimant thought proper to take advantage of this defect before testimony was submitted the contest would have been dismissed, unless application had been made to amend; (*Worthington v. Watson*, 2 L. D., 301).

ADJUSTMENT OF RAILROAD GRANTS—ACT OF MARCH 3, 1887.

INSTRUCTIONS.

Secretary Lamar to Acting Commissioner Stockslager, November 22, 1887.

The act of March 3, 1887, authorizes and directs the Secretary of the Interior to immediately adjust in accordance with the decisions of the supreme court each of the railroad land grants made by Congress to aid in the construction of railroads, and heretofore unadjusted.

The second section of said act provides—

That if it shall appear, upon the completion of such adjustments respectfully (respectively), or sooner, that lands have been, from any cause, heretofore erroneously certified or patented, by the United States, to or for the use or benefit of any company claiming by, through, or under grant from the United States, to aid in the construction of a railroad, it shall be the duty of the Secretary of the Interior to thereupon demand from such company a relinquishment or reconveyance to the United States of all such lands, whether within granted or indemnity limits; and if such company shall neglect or fail to so reconvey such lands to the United States within ninety days after the aforesaid demand shall be made, it shall thereupon be the duty of the Attorney-General to commence and prosecute in the proper courts the necessary proceedings to cancel all patents, certification, or other evidence of title heretofore issued for such lands, and to restore the title thereof to the United States.

The provision contained in this section confers no greater power upon the Secretary of the Interior than he possessed before the passage of that act, and which from time to time has been exercised by that official in recommending to the Attorney General that suits be brought to cancel patents appearing to have been erroneously certified or patented for the benefit of any railroad company.

The purpose of the act was to make that mandatory which before rested in the discretion of the Secretary in the exercise of his authority over the public lands. Heretofore the Secretary of the Interior might recommend and request the Attorney General to institute suits for the cancellation of patents, which in his judgment were erroneously issued for the benefit of any railroad company under its grants, and the Attorney General in the exercise of his authority might grant or refuse such request as in his judgment might seem proper, but, under the act above referred to, whenever it shall appear upon the completion of the adjustment of any railroad land grant, or sooner, that any lands have been erroneously certified or patented for the benefit of said company, it is made the imperative duty of the Secretary of the Interior to demand of said company a relinquishment or reconveyance to the United States of all such lands, and if the company neglects or fails to reconvey the same, it shall thereupon be the duty of the Attorney-General to commence and prosecute in the proper courts necessary proceedings to can-

cel the patents for said lands, and to restore the title thereof to the United States.

Therefore, if in the adjustment of the grant of any road it should appear from the records in your office that any lands within either the granted or indemnity limits of such road have been erroneously certified or patented for the benefit of such company, either from an improper adjustment of the limits of said grant, or from the erroneous cancellation of any filing or entry, or from any cause whatever, you will report such facts to the Department for action thereon, stating fully and specifically the grounds upon which it is supposed such tracts were erroneously certified or patented, and whether said tracts are within the granted or indemnity limits of said road.

The third section of said act provides:

That if, in the adjustment of said grants, it shall appear that the homestead or pre-emption entry of any bona fide settler has been erroneously canceled on account of any railroad grant or the withdrawal of public lands from market, such settler upon application shall be reinstated in all his rights and allowed to perfect his entry by complying with the public land laws: *Provided*, That he has not located another claim or made an entry in lieu of the one so erroneously canceled: *And provided also*, That he did not voluntarily abandon said original entry: *And provided further*, That if any of said settlers do not renew their application to be reinstated within a reasonable time, to be fixed by the Secretary of the Interior, then all such unclaimed lands shall be disposed of under the public land laws, with priority of right given to bona fide purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to bona fide settlers residing thereon.

This section does not embrace any lands that have been certified or patented to the company, but has reference solely to lands, the right and claim to which has heretofore been adjudicated in favor of the company as against the right of a settler upon said lands, and which are still under the control and jurisdiction of the Department. The object and purpose of this section is to correct all decisions made by the Department or the General Land Office where it shall appear in the examination of any land grant heretofore unadjusted that the homestead or pre-emption entry of a bona fide settler was erroneously canceled. In such case a final decision of a former or the present Secretary is not only no longer a bar to the further consideration of the question decided, but it is made the duty of the Secretary to readjudicate the case, notwithstanding the former decision, whenever it appears that the pre-emption or homestead entry of any bona fide settler has been erroneously canceled on account of any railroad grant or of withdrawal of public lands from market.

In the adjustment of every grant to aid in the construction of railroads, you will make report upon all pre-emption and homestead entries of bona fide settlers that may in your judgment appear from the records of your office to have been erroneously canceled, either because the land is within the limits of the railroad grant, or because it had been

withdrawn for indemnity purposes for said road, provided the right to the tract has been decided in favor of the company, and forward said report to the Department for consideration and action thereon, stating fully and specifically as to each particular tract, the grounds upon which you may determine that said pre-emption and homestead entries were erroneously canceled, and the right to the land erroneously decided in favor of the company; and upon filing said report you shall cause notice thereof to be given to both parties, advising them that said case will be held by this Department for thirty days before action, during which time they can make such showing as they may desire.

If in such report you should determine that the pre-emption or homestead entry of any bona fide settler has been erroneously canceled, and the right to the land adjudged in favor of the railroad, and your decision thereon shall be sustained by the Department, after due notice the land will then be subject to disposal as provided for in said section; that is, the settler whose entry was erroneously canceled will be notified of his right to make application to be re-instated in all his rights, and if such settler shall make such application within a reasonable time, to be fixed by the Secretary of the Interior in such notice, he shall be re-instated in all his rights: Provided that he shows affirmatively that he has not located another claim or made an entry in lieu of the one so erroneously canceled, and that he did not voluntarily abandon said original entry. If said settler should fail to make application within the time required, and to show that he has not located another claim or made an entry in lieu of the one so erroneously canceled, and that he did not voluntarily abandon said original entry, then all such unclaimed lands shall be disposed of under the public land laws, with priority of right given to bona fide purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to bona fide settlers residing thereon.

The bona fide purchasers here referred to are those who, without knowledge of wrong or error, have purchased from the railroad company lands which had been previously entered by the pre-emption or homestead settler, whose entry has been erroneously canceled as described in the first clause of the third section, and which land the pre-emption or homestead settler did not elect to claim after recovery by the proceedings prescribed by the second section of the act.

As to the lands which have been erroneously certified or patented to the company (being the lands referred to in the second section), the fourth section of the act provides for the disposal of such of those lands as may have been sold by the company to citizens of the United States or persons who have declared their intention to become such citizens, upon the following conditions:

After said lands shall have been reconveyed to the government, or the title to the same recovered, the class of persons above referred to, so purchasing in good faith, their heirs or assigns, shall be entitled to the land so purchased, upon making proof of such purchase at the proper

land office, within such time and under such rules as may be prescribed by the Secretary of the Interior, after the grants respectively shall have been adjusted; and patent shall issue to such persons, which shall relate back to the original certification or patenting. The section then provides that the Secretary of the Interior shall demand of the company payment for said lands, of an amount equal to the government price of similar lands; and in case of the neglect or refusal of the company to make payment thereof within ninety days after demand, the Attorney-General shall cause suits to be brought against the company for said amount. Under the act the purchaser of such lands from the company may recover from the company the purchase-money paid by him, less the amount paid by the company to the United States.

A mortgage or pledge of said lands by the company is not a sale, within the meaning of the act.

The object of this section is to confirm to the purchaser the title to the land therein referred to, upon making proof of such purchase, and that the purchaser has the qualifications required by the act, without requiring of the purchaser any further payment to the government of the purchase price of said land.

The fifth section of said act reads as follows:

That where any said company shall have sold to citizens of the United States, or to persons who have declared their intention to become such citizens, as a part of its grant, lands not conveyed to or for the use of such company, said lands being the numbered sections prescribed in the grant, and being coterminous with the constructed parts of said road, and where the lands so sold are for any reason excepted from the operation of the grant to said company, it shall be lawful for the bona fide purchaser thereof from said company to make payment to the United States for said lands at the ordinary government price for like lands, and thereupon patents shall issue therefor to the said bona fide purchaser, his heirs or assigns: *Provided*, that all lands shall be excepted from the provisions of this section which at the date of such sales were in the bona fide occupation of adverse claimants under the pre-emption or homestead laws of the United States, and whose claims and occupation have not since been voluntarily abandoned, as to which excepted lands the said pre-emption and homestead claimants shall be permitted to perfect their proofs and entries and to receive patents therefor: *Provided further*, that this section shall not apply to lands settled upon subsequent to the first day of December, 1882, by persons claiming to enter the same under the settlement laws of the United States, as to which lands the parties claiming the same as aforesaid shall be entitled to prove up and enter as in other like cases.

Under this section, when the company has sold to citizens of the United States or persons who have declared their intention to become such citizens, the numbered sections prescribed in the grant, and coterminous with the constructed portions of the road, within either the granted or indemnity limits, and which upon the adjustment of the grant are shown to be excepted from the operation of the grant, it shall be lawful for such purchasers—if their purchase is bona fide—to purchase said land from the government by payment of the government price

for like lands, unless said lands were at the date of purchase in the bona fide occupation of adverse claimants under the pre-emption or homestead laws, in which case the pre-emptor or homestead claimant may be permitted to perfect his proof, unless he has since voluntarily abandoned the land.

Under the last proviso of said section, however, if a settlement was made on said lands subsequent to December 1, 1882, by persons claiming the same under the settlement laws of the United States, it will defeat the right of the purchaser whether said purchase was made prior to or subsequent to December 1, 1882, and the settler will be allowed to prove up for said lands as in other like cases.

The sixth section provides that when any such lands have been sold and conveyed as the property of the company, for State and county taxes, and the grant to the company has been thereafter forfeited, the purchasers at such sale shall have the preference right for one year from the date of the act in which to purchase said lands from the United States, by paying the government price for said lands, provided said lands were not, previous to or at the time of the taking effect of such grant, in the possession of or subject to the right of an actual settler.

The seventh section provides—

That no more lands shall be certified or conveyed to any State or to any corporation or individual, for the benefit of either of the companies herein mentioned, where it shall appear to the Secretary of the Interior that such transfers may create an excess over the quantity of lands to which such State, corporation or individual would be rightfully entitled.

You will proceed at once, and with as much dispatch as possible, to adjust all land grants to aid in the construction of railroads, under the provisions of the act above referred to, and in accordance with the directions herein given. You will inform the Department at once when you commence the adjustment of any grant, in order that cases pending in the Department involving the rights of the road under such grant may be taken up and considered.

TIMBER CULTURE ENTRIES.

CIRCULAR.*

Commissioner Sparks to registers and receivers, June 27, 1887.

The following regulations under the timber-culture laws are prescribed:

1. The only persons who are authorized to make timber-culture entries under the act of June 14, 1878, are heads of families or single persons who have attained the age of twenty-one years, and are citizens of the United States or have declared their intention to become such, and who have made no previous entry under the timber-culture laws:

* For previous circulars see 1 L. D., 638, 651, 652; 2 *id.*, 660.

of the grant of Congress by the act of March 3, 1863 (12 Stat., 772), for the benefit of said company.

The question as to whether the lands were rightfully or wrongfully certified to the State is not one which the Department can now properly consider and pass upon. That is a question for the courts. It is sufficient to know that the lands have been certified by the Land Department acting within the scope of its authority, for by that certification the Department lost jurisdiction over them, the legal title having thereby passed out of the United States and vested in the State.

It is too well settled to call for argument or citation that where the law does not expressly require patent, legal title passes as completely by certification as if patent issued; and it will not be questioned that when the legal title has passed from the government, this Department is without authority over the lands to which such title relates. *Wisconsin Central Railroad Company v. Stinka* (4 L. D., 344); *Moore v. Robbins* (96 U. S., 530).

The lands in question having been certified to the State of Kansas for the benefit of the Atchison, Topeka and Santa Fe Railroad Company, it follows that the Land Department is without jurisdiction over them and your office decision rejecting the application of Anna Garrigues to enter the tracts herein described, and dismissing her appeal was correct, and said decision is accordingly affirmed.

RAILROAD GRANT—DEMAND UNDER THE ACT OF MARCH 3, 1857.

WINONA & ST. PETER R. R. CO. ET AL.

On the adjustment of a railroad grant under the act of March 3, 1857, demand for the reconveyance of lands, which appear to have been erroneously certified for the benefit of the company, will not be made until after notice to the company, to show cause in writing why proceedings should not be taken under said act for the restoration of said lands to the government.

Circular of November 22, 1857, modified.

Secretary Vilas to Acting Commissioner' Stockslager, February 21, 1888.

By letter of January 10, 1888, you transmitted two lists of lands stated to have been erroneously certified to the State of Minnesota for the benefit of the Winona and St. Peter and St. Paul and Sioux City Railroad Companies under the grant of lands to that State, for railroad purposes, made March 3, 1857 (11 Stats. 195).

List "A" embraces lands contained in the odd numbered sections and which were selected and certified as indemnity lands for said roads, or one of them.

List "B" is of lands contained in the even sections along the line of said roads and were certified in lieu of lands claimed to have been re-

linquished by said roads or one of them under the provisions of the act of June 22, 1874 (18 Stats. 194).

These lists are transmitted for my action under the provisions of the act of March 3, 1887 (24 Stats. 556).

That act requires the Secretary to adjust "in accordance with the decisions of the supreme court" each of the railroad land grants made by Congress, and provides further that if on the completion of the adjustment, or sooner, it should appear that any lands had been erroneously certified to a company demand should be made for a reconveyance of the same to the United States; and upon failure of said company to make such reconveyance, within ninety days, then it becomes the duty of the Attorney General to institute and prosecute proper legal proceedings to restore the title of said lands to the United States.

Under the language of this act it may be a serious question whether, when the Secretary has once made such a demand, his jurisdiction in the premises is not ended and whether he can do anything further than transmit the papers to the Attorney General should the company fail to comply with the demand.

Ordinarily, when papers are transmitted to the Attorney General by this Department for the purpose of asserting through the courts the supposed rights of the government, such transmission is accompanied by a recommendation that suit be brought, if upon investigation the Attorney General should be of the opinion that it can be successfully maintained.

But under the language of this act all discretion seems to be taken away from that officer, and it apparently becomes his imperative duty to bring such suit forthwith.

Cases will arise doubtless in the adjustment of these railroad grants when it will appear from your records that lands have been erroneously certified to some company, yet if the true facts were known, or some explanation made, the error would disappear and the Secretary would not feel himself justified to either demand the restoration of said land, or recommend suit to restore the same. Yet, if such knowledge came only after demand, it may be well doubted whether either of the officers named would have any authority to reconsider his action, or in any way stop the proceedings directed by the law.

Under these circumstances, it seems to me, great circumspection should be exercised in the premises, and such means used as are within control to ascertain all the facts bearing upon the certification or patenting in question. And I can think of no better means of aiding in said ascertainment than to allow the company in question to be heard before, what appears to be, the final action of this department is taken and demand made for the return of the land.

You will therefore, on receipt hereof, notify the Winona and St. Peter and St. Paul and Sioux City Railroad Companies that, it appearing from your records, said lands have been erroneously certified for their

use, specifying the lands referred to, said companies will be allowed thirty days after service of notice within which to show cause, in writing, before you why proceedings should not be taken in accordance with the provisions of said act of March 3, 1887, to secure the restoration of said lands to the government. After the expiration of the time fixed in such notice, you will then certify up such lists and with them any showing made by the companies interested, with your opinion thereon.

Hereafter, similar action will be taken by your office in all like cases, prior to transmission of the same to this department. To this extent the circular of November 22, 1887 (6 L. D., 276), is modified.

MINERAL ENTRY—EQUITABLE ADJUDICATION.

NEWPORT LODGE.

A mineral entry may be submitted to the Board of Equitable Adjudication, where the only defect in the proof is a misdescription, of one of the lines of survey, occurring in the published notice of application, and such error appears to be through no fault of the applicant, and is without prejudice to the rights of third parties.

Secretary Vilas to Acting Commissioner Stockslager, February 23, 1888.

I have considered the appeal of the claimants from the decision of your office dated July 30, 1886, requiring new publication of notice in mineral entry No. 867, survey No. 1759 for the Newport Lodge mining claim, made May 20, 1884, at the Lake City land office, in the State of Colorado.

The record shows that your office, on June 23, 1886, considered the papers in said mineral entry, made by E. P. Hill, *et al.* and found that the published notice was insufficient, for the reason that the field notes described the line running from corner number one, 2252.2 feet, while the published notice states said line to be 2552.2 feet.

Your office, however, considered that said change was only a typographical error, and, since there was no evidence of bad faith, the applicants, if they so desired, would be allowed within sixty days from due notice to publish new notice of their application for patent, accompanying the same with proof of posting of notice in the local land office, and upon the land as provided by the statute, subject to any adverse claim.

Your office further required certain supplementary proof relative to the identification of the section corner with which said claim was connected. The required proof was subsequently furnished, and on July 30, 1886, your office again considered the case. Your last decision states that the applicants claim that said published notice referred to the

is incurred: *Johnson v. Towsley* (13 Wall., 72). The cash entrymen here are not "settlers" at all, and therefore cannot insist that Gainer shall be deprived of his claim and improvements, for *their* benefit, simply because he omitted to file within three months after his settlement (i. e. thirteen years before the land was "offered" and *eighteen* years before these particular entrymen applied to purchase). The only case in which the statute provides that "land settled and improved" by a pre-emption claimant shall, because of his failure to file within the specified period, become "subject to the entry of any other purchaser," is the case mentioned in Sec. 2264, to wit, one in which the land is "subject at the time of settlement to private entry." The present case is not touched by that, inasmuch as Gainer's settlement was made some thirteen years before the land first became "subject to private entry."

There being no provision in the law for forfeiting such a claim upon this ground, *except* in favor of "the next settler who has given notice etc.," and there being in this case no settlers at all, other than Gainer himself, I see no reason why the latter should not be allowed to make entry, after he shall have duly established the facts alleged in a proper proceeding against the adverse claimants. A hearing should be ordered for this purpose.

Your said decision is modified accordingly.

CIRCULAR-ACT OF MARCH 3, 1887.

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

Washington, D. C., February 13, 1889.

Registers and Receivers, United States Land Offices:

GENTLEMEN: The following instructions under the act of Congress approved March 3, 1887 (24 Stat., 556), are forwarded for your guidance.

THE FIRST SECTION

Directs that all railroad land grants not adjusted heretofore shall be adjusted immediately, that is without unnecessary delay. The duties thereunder pertain to the General Land Office and Department of the Interior.

THE SECOND SECTION

Provides for the recovery by the United States of title to lands which from any cause have been erroneously certified or patented "to or for the use or benefit of any company" on account of a railroad grant, whenever the fact may be ascertained that a certificate or patent has been erroneously issued, and prescribes the duties of the Secretary of the Interior and Attorney-General in connection therewith.

THE THIRD SECTION

Provides "That, if in the adjustment of said grants, it shall appear that the homestead or pre-emption entry of any *bona fide* settler has been

erroneously canceled on account of any railroad grant, or the withdrawal of public lands from market, such settler, upon application, shall be reinstated in all his rights and allowed to perfect his entry by complying with the public land laws; *provided*, that he has not located another claim or made an entry in lieu of the one so erroneously canceled; *and provided also*, that he did not voluntarily abandon said original entry; *and provided further*, that if any of said settlers do not renew their application to be reinstated within a reasonable time, to be fixed by the Secretary of the Interior, then all such unclaimed lands shall be disposed of under the public land laws, with priority of right given to *bona fide* purchasers of said unclaimed land, if any, and if there be no such purchasers then to *bona fide* settlers residing thereon."

Three classes of persons are provided for under this section.

First. Bona fide settlers whose homestead or preëmption entries have been erroneously canceled on account of a railroad grant or withdrawal.

Second. Bona fide purchasers of such unclaimed lands.

Third. Bona fide settlers residing thereon.

The rights of the several classes to the lands referred to in the section are successive in the order stated in the section. The first in right is the homestead or preëmption settler whose entry has been wrongfully canceled. If he elects to assert his right, and has not been disqualified by locating another claim or making another entry in lieu of the entry erroneously canceled, his right is absolute, and the successive rights of the remaining two classes can not attach if he lawfully asserts his claim. If he fail to claim the land, or is disqualified under the act, the second class of persons, who are the *bona fide* purchasers of the land unclaimed by him, attach, and have precedence over the third class. The *bona fide* purchasers here referred to are those who, without knowledge of wrong or error, have purchased from the railroad company lands which have been previously entered by a preëmption or homestead settler, whose entry has been erroneously canceled, as described in the first clause of the third section, and which land the preëmption or homestead settler did not elect to claim after the recovery by the proceedings prescribed by the second section of the act.—*Attorney-General's Opinion*, Nov. 17, 1887 (6 L. D., 272).

Parties of the first class desiring to avail themselves of the benefits of this section should present their applications without unnecessary delay, after notice of intention as required by the act of March 3, 1879, in preëmption and homestead cases. The application must in every instance be accompanied by proof showing:

1. The facts respecting the date of the applicant's settlement, duration of residence, and value of improvements upon the public land.
2. Whether he has located any other claim under any of the laws of the United States authorizing settlements upon public lands.
3. Whether he has abandoned the land embraced in his canceled entry or filing, if so, the causes which led to the abandonment.
4. Whether any other person or persons are residing upon the land.
5. That such persons as may be so residing upon the land have been notified of the intention of the claimant to apply for the re-instatement of his filing or entry, and the manner of giving such notice must be shown.

Should an adverse claimant appear to dispute or contest the right of re-instatement proceedings will be had in accordance with Rules of Practice as in ordinary contests.

While the act contains no provision relative to persons whose entries or filings have not been canceled, but whose lands have been certified or patented on account of railroad grants, it follows as a matter of course, that their rights should be protected, and the mode of procedure in such cases will be the same as in the cases where cancellation has been made, except that the parties should apply to make final proof and payment instead of for re-instatement of entry; but in such case proceedings will be deferred until the title has been restored to the United States as provided by section two of the act. The instructions of Nov. 22, 1887 (6 L. D., 276), under this section, are hereby modified in accordance with the foregoing.

Proceedings on applications by parties of the second class will be governed by instructions under the fourth section.

Applicants of the third class will be required to submit evidence, in addition to that relating to their own settlement or claims, showing whether there are persons of the first or second class residing upon, in possession of, or claiming lands.

THE FOURTH SECTION

Relates to all lands which have been erroneously certified or patented on account of railroad grants, except those mentioned in the third section, and by the grantee company sold to citizens or to persons who have declared their intention to become citizens of the United States; and provides that after the title to such lands has been restored to the United States as contemplated by the second section of the act, persons who have purchased such land in good faith, their heirs or assigns, shall be entitled to the lands upon making proof at the proper land office, whereupon patents shall issue relating back to the date of the original certification or patenting, and the grantee company will be required to pay the United States for such lands at the price at which other similar lands are legally held by the Government.

The purchaser from the company is not debarred by the act from recovering from the company the amount of purchase money paid by him less the amount paid by the company to the United States for the land.

A mortgage or pledge of such lands is not a sale within the intention of the act.

No forfeiture is declared by this act against any land grant for conditions broken (and no entry is authorized for lands legally within such grant), but no rights of the United States on account of breach of conditions are waived by the act.

An applicant for land under this section will be required to publish

notice of intention to make proof as in preëmption and homestead cases, and the proof must show :

1. That he is, or has declared his intention to become, a citizen of the United States.
2. That he is a *bona fide* purchaser from the company or some person claiming title under it, and the character of the instrument conveying the land to him.
3. The amount of purchase money paid to the company.
4. What part, if any, of the purchase money paid to the company has been refunded to him or any person acting as his agent.
5. Whether he has instituted proceedings against the company for the recovery of any portion of the purchase money; if so, for what portion.
6. The value and character of the improvements, if any, made or acquired by him upon the land.
7. Whether there is any person of the first class under the third section entitled to the right of entry under the preëmption or homestead laws.

Upon the submission of satisfactory proof as prescribed above, the register will issue certificate, in duplicate—numbered in the regular cash series—with annotations thereon showing that the entry is allowed without payment under the fourth section of the act of March 3, 1887 (24 Stat., 556).

THE FIFTH SECTION

Relates to lands within the limits of railroad grants, coterminous with constructed portions of the lines of road, not conveyed on account of, but excepted from, the grants.

Under this section, when the company has sold to citizens of the United States or persons who have declared their intention to become such citizens, the numbered sections prescribed in the grant and coterminous with the constructed portions of the road, within either the granted or indemnity limits, and which upon the adjustment of the grant are shown to be excepted from the operation of the grant, it shall be lawful for such purchasers (if their purchases are *bona fide*) to purchase said land from the Government by payment of the Government price for like lands, unless said lands were at the date of purchase in the *bona fide* occupancy of adverse claimants under the preëmption or homestead laws, in which case the preëmptor or homestead claimant may be permitted to perfect his proof unless he has since voluntarily abandoned the land.

Under the last proviso of said section, however, if a settlement was made on said lands subsequent to December 1, 1882, by persons claiming the same under the settlement laws of the United States, it will defeat the right of the purchaser, whether said purchase was made prior or subsequent to December 1, 1882, and the settler will be allowed to prove up for said lands as in other like cases.

Applicants to purchase under this section will be required to publish

notice of intention as directed by instructions under the third and fourth sections, and the proof must show:

1. That the tract was of the numbered sections prescribed by the grant.
2. That it was coterminous with constructed parts of said road.
3. That it was sold by the company to the applicant, or one under whom he claims, as a part of its grant.
4. That it was excepted from the operation of the grant.
5. That at the date of said sale it was not in the *bona fide* occupancy of adverse claimants under the preëmption or homestead laws, whose claims and occupancy have not since been voluntarily abandoned.
6. That it has not been settled upon subsequent to the first day of December, 1882, by any person or persons claiming the right to enter the same under the settlement laws.
7. That the applicant is, or has declared his intention to become, a citizen of the United States.
8. And that he, or one under whom he claims, was a *bona fide* purchaser of the land from the company.

The proof upon these points being found satisfactory, the entry will be allowed and the usual cash certificate and receipts will be issued thereon reciting the fact that the entry is in accordance with the fifth section of the act of March 3, 1887, (24 Stat., 556).

No entry will be allowed under this section until it shall have been finally determined by this Department that the land was excepted from the grant.

THE SIXTH SECTION

Provides that when any such lands have been sold and conveyed as the property of the company for State and county taxes, and the grant to the company has been thereafter forfeited, the purchaser at such sale shall have the preference right for one year from the date of this act, and no longer, in which to purchase said lands from the United States by paying the Government price for said lands, provided said lands were not previous to or at the time of the taking effect of such grant in the possession of or subject to the right of an actual settler.

The period prescribed by the statute for presenting applications under this section having expired, instructions as to methods of procedure are deemed unnecessary.

THE SEVENTH SECTION

Authorizes the Secretary of the Interior to refuse to certify or convey lands on account of any railroad grant where it shall appear to him that to do otherwise would give to the grantee more lands than the granting act contemplated giving.

Very respectfully,

S. M. STOCKSLAGER,
Commissioner.

Approved:

WM. F. VILAS,
Secretary.

said trial, during which the case at bar was of necessity held in abeyance, awaiting the determination of the case of *Dratt v. Conlon*, which occupied the attention, not only of the officers, but of the lawyers as well, the same lawyers being employed in both cases. While the *Dratt* and *Conlon* case was thus being tried, no entry was made on the docket or trial record of the office in the case at bar, and because of the absence of an entry of continuance to a day fixed, or from day to day, during the pendency as aforesaid of the other case, the attorneys for *Conlon* in the *Gebhard v. Conlon* case, on the third day and during the progress of the *Dratt-Conlon* case, moved to dismiss the case at bar for "want of prosecution," because, I presume, the case had been set for the 9th of November, and the 12th of November had arrived and it had not yet been taken up for trial. The motion, considered in connection with the circumstances under which it was made was frivolous and did not deserve to be entertained by the officers. The attorneys who filed it had been in court during all the time the other case had been on trial, participating therein, and had raised no objection to the disposition made of the case at bar. No rights of the defendant were prejudiced thereby, and if it were necessary, under the circumstances, to note on the trial docket (which I do not hold it to be) such continuance from day to day, the fact that this was not noted is not the fault of contestant, and such continuance was had with the full knowledge and consent of defendant's attorneys, and they should not thereafter be heard to object. *Smith v. Johnson*, 9 L. D., 255.

* * * * *

CIRCULAR—ENTRY BY EMPLOYÉ OF THE GENERAL LAND OFFICE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,

Washington, D. C., September 15, 1890.

To the Officers and Employés of the Land Department.

GENTLEMEN: Section 452 of the Revised Statutes provides that—

The officers, clerks, and employés in the General Land Office are prohibited from directly or indirectly purchasing or becoming interested in the purchase of any of the public land; and any person who violates this section shall forthwith be removed from his office.

The Honorable Secretary of the Interior, in the case of *Herbert McMicken et al.* (10 L. D., 97; 11 L. D., 96), has decided that the disqualification to enter public lands, contained in said section, extends to officers, clerks, and employés in any of the branches of the public service under the control and supervision of the Commissioner of the General Land Office in the discharge of his duties relating to the survey and sale of the public lands.

In accordance with said decision, all officers, clerks, and employés in the offices of the surveyors-general, the local land offices, and the Gen-

eral Land Office, or any persons, wherever located, employed under the supervision of the Commissioner of the General Land Office, are, during such employment, prohibited from entering, or becoming interested, directly or indirectly, in any of the public lands of the United States.

Very respectfully,

LEWIS A. GROFF,
Commissioner.

Approved:

GEO. CHANDLER,
Acting Secretary.

PRACTICE—PETITION FOR RE-REVIEW—APPLICATION FOR HEARING.

SPICER ET AL. *v.* NORTHERN PACIFIC R. R. CO.

A petition for re-review should present facts or questions of law not previously considered or involved in the case.

An application for a hearing addressed to the Secretary of the Interior calls for the exercise of his discretionary authority, and it is therefore just and proper that he should, in such a case, be fully informed as to all facts connected with the subject matter, and determine, after a consideration of the whole subject, whether such facts demand action.

Secretary Noble to the Commissioner of the General Land Office, October 1, 1890.

The attorney for Spicer *et al.* has filed a motion for review of departmental decision of July 17, 1890, in the case of R. E. Spicer *et al. v.* Northern Pacific R. R. Co. (11 L. D., 50) involving the NE. $\frac{1}{4}$ of Sec. 19, T. 25 N., R. 43 E., Spokane Falls, Washington.

The decision thus complained of was rendered upon a motion for review of departmental decision of April 12, 1890 (10 L. D., 440), and hence the present motion is in the nature of a petition for a re-review.

Service of notice of the filing of this motion was not properly shown in accordance with the rules of practice requiring such service to be made personally or by registered letter, but inasmuch as the attorneys for the opposing parties have seen fit to oppose the granting of said motion on the ground that it is not authorized by the rules of practice, and of its insufficiency, without objection to the service, they have placed themselves within the jurisdiction of this Department, and waived the question as to the sufficiency of the notice.

This motion does not come up to the requirements prescribed for petitions for re-review as laid down in the case of Neff *v.* Cowhick (8 L. D., 111) and re-affirmed in numerous decisions, among which are Creswell Mining Co. *v.* Johnson (8 L. D., 440), Dayton *v.* Dayton (9 L. D., 93); Wenie *et al. v.* Frost (9 L. D., 588).

While this is true, yet in view of the peculiar circumstances in this case I have thought best to waive those requirements and to consider upon its merits the motion thus presented.

From this appropriation I am of the opinion that the expenses of a hearing in order to determine the character of a survey alleged to be fraudulent or defective, can be paid, as well as the work of such field examination as may be necessary in connection therewith.

In other words, that any expense incurred in inquiring into the character of the surveys, to the end that payment may be prevented for such as are fraudulent or imperfect, can be paid from said appropriation.

You will, therefore, make the advance as recommended and direct that the matter be proceeded with at once.

SOLDIERS' ADDITIONAL HOMESTEAD—ACT OF AUGUST 18, 1894.

CIRCULAR.

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

Washington, D. C., October 16, 1894.

REGISTERS AND RECEIVERS,

United States Land Offices:

GENTLEMEN: Your attention is called to the following provision contained in an Act of Congress, entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes," approved August 18, 1894, viz:

That all soldiers' additional homestead certificates heretofore issued under the rules and regulations of the General Land Office under section twenty-three hundred and six of the Revised Statutes of the United States, or in pursuance of the decisions or instructions of the Secretary of the Interior, of date March tenth, eighteen hundred and seventy-seven, or any subsequent decisions or instructions of the Secretary of the Interior or the Commissioner of the General Land Office, shall be, and are hereby, declared to be valid, notwithstanding any attempted sale or transfer thereof; and where such certificates have been or may hereafter be sold or transferred, such sale or transfer shall not be regarded as invalidating the right, but the same shall be good and valid in the hands of bona fide purchasers for value; and all entries heretofore or hereafter made with such certificates by such purchasers shall be approved, and patent shall issue in the name of the assignees.

You will observe that all certificates of right, regularly issued by this office, showing that the parties named therein are entitled to make soldier's additional homestead entries, are declared to be valid by the statute, notwithstanding any attempted sale or transfer, and that, where such certificates have been or may hereafter be, sold or transferred, the sale or transfer thereof shall not be regarded as invalidating the right, but the same shall be good and valid in the hands of bona fide purchasers for value, and that all entries made by such purchasers therewith shall be approved, and patent shall issue in the name of the assignees, but before approving such entries for patent, the transferee shall file in this office satisfactory proof of ownership and of bona fide purchase for value.

To enable assignees of these certificates to exercise in their own names the right of entry confirmed by this statute, it is directed that the certificate itself shall, in each instance, prior to any entry by the assignee, be presented to this office for examination and additional certification covering the fact of assignment. Holders of such certificates desiring to exercise a right of entry in their own names, must file such certificates in this office, together with satisfactory proof of ownership and of bona fide purchase for value. If, upon examination, the proof so filed is satisfactory, an additional certificate will be attached to the original authorizing the location thereof, or entry of land therewith, in the name of the assignee or his assigns. You will allow no entries in the names of assignees except upon presentation of such additional certificates issued by this office. When such additional certificates are presented, you will issue homestead papers and the final certificate and receipt, in the name of the transferee, referring to him in said papers as the "Assignee" of the soldier.

You will also observe that this law does not prohibit the location of said certificates, by the holders, as heretofore, either by the soldiers in person or by others acting as attorneys for the soldiers and in the names of the soldiers. Therefore, when application is made to locate such a certificate by the holder in the name of the soldier, you will allow the entry of land under said certificate, if the application papers are regular in all other respects, and issue the homestead papers, and final certificate and receipt in the name of the soldier, under the instructions heretofore issued in reference to such cases, which are still operative.

When soldiers, to whom certificates of right have not been issued, who made their original homestead entries for less than one hundred and sixty acres prior to June 22, 1874, and who have not exhausted their additional rights, apply in person to make entries, you will, as heretofore, before allowing the applications to go to record, transmit the same to this office for examination as directed in the circular letter of February 18, 1890, which is still operative in regard to this class of claims.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

Approved.

HOKE SMITH,
Secretary.

By the act of July 4, 1884 (23 Stat., 96), it is provided:

That such Indians as may now be located on public lands, or as may under the direction of the Secretary of the Interior, or otherwise, hereafter so locate, may avail themselves of the provisions of the homestead laws as fully and to the same extent as may now be done by citizens of the United States; and to aid such Indians in making selections of homesteads, and the necessary proofs at the proper land offices, one thousand dollars, or so much thereof as may be necessary, is hereby appropriated; but no fees or commissions shall be charged on account of said entries or proofs. All patents therefor shall be of the legal effect, and declare that the United States does and will hold the land thus entered for the period of twenty-five years, in trust for the sole use and benefit of the Indian by whom such entry shall have been made, or, in case of his decease, of his widow and heirs according to the laws of the state or territory where such land is located, and at the expiration of said period the United States will convey the same by patent to said Indian, or his widow and heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever.

Under the circumstances existing, you will allow the said Mary Mil-len to make entry under this act last above cited, and so instruct the local office.

Your office decision is modified in accordance with the views herein expressed.

ABANDONED MILITARY RESERVATION—ACT OF AUGUST 23, 1894.

INSTRUCTIONS.

In the disposal of lands in abandoned military reservations, under the act of August 23, 1894, the time fixed for installment payments authorized by said act, and the interest thereon should be uniform for all reservations opened to settlement under said act.

Secretary Smith to the Commissioner of the General Land Office, April
(J. I. H.) 9, 1895. (W. H. A.)

I am in receipt of your letter of the 25th ultimo transmitting for my approval instructions to the proper local officers for the disposal of the lands in the Fort Rice, North Dakota, and Fort Bridger, Wyoming, abandoned military reservations.

You call my attention to the variance in departmental letters of February 9, 1895, and February 18, 1895, directing how the payments shall be made for the lands in these reservations respectively and the interest to be charged entrymen on deferred payments.

The act of August 23, 1894 (28 Stats 491), authorizes entries for these lands. So much of said act as is applicable to the question presented by you is found in the proviso to the first section thereof, which is as follows:

That persons who enter under the homestead law shall pay for such lands not less than the value heretofore or hereafter determined by appraisalment, nor less than the price of the land at the time of the entry, and such payment may, at the option of the purchaser, be made in five equal installments, at times and at rates of interest to be fixed by the Secretary of the Interior.

For obvious reasons, the time for the payments in installments authorized by said act, and the interest thereon, should be uniform for the lands in all reservations opened to settlement by virtue thereof.

I have to direct therefore that you prepare all instructions to local officers under said act so as to conform to departmental letter of February 18, 1895, as follows:

That the homesteader be given the option in making payment upon his entry of these lands, of making his payments in five equal payments to date from the time of the acceptance of his proof tendered on his entry, and that the rate of interest upon deferred payments be charged at the rate of 4 per cent per annum.

It follows that the instructions to the local officers, at Bismarck, North Dakota, must be amended to conform to the above directions; and the same are returned for that purpose.

The instructions to the local officers at Evanston, Wyoming, are herewith returned approved.

ABANDONED MILITARY RESERVATION—FORT BRIDGER.

INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 9, 1895.

REGISTER AND RECEIVER,
Evanston, Wyoming.

GENTLEMEN: On February 18, 1895, the Hon. Secretary of the Interior approved the report of the appraisers of the Fort Bridger abandoned military reservation. Inclosed find copy of said departmental decision. (See 20 L. D., 118.)

You will observe that entries for these lands are authorized under the act of August 23, 1894, and that the Secretary directs that the homesteader be given the option in making payment upon his entry of these lands, of making his payments in five equal annual payments to date from the time of the acceptance of his proof tendered on his entry, and that the rate of his interest upon deferred payments be charged at the rate of 4 per cent per annum.

A copy of the report of the appraisers has been filed in your office, and upon the request of entrymen you will inform them at what rate per acre the lands entered by them have been appraised.

In allowing entries for the lands in this reservation you will in each case, endorse on the application "Fort Bridger Reservation, Act of August 23, 1894," and make the same notation on your abstract of homestead entries.

Under the provisions of the homestead law, an entryman has the right either to commute his entry after fourteen months from the date of entry or offer final proof under Sec. 2291 R. S. In entries under said act of August 23, 1894, he may, at his option, commute after fourteen months with full payment in cash or, after submitting ordinary

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May 10, 1894, and had no opportunity to protect its interests at that hearing.

That petition was transmitted here by your office letter "G" of April 13, 1895.

The twenty acres referred to by said railroad company consists of a strip of land four hundred feet off the whole east side of said quarter section. It was awarded to said railroad company for depot grounds, by the Department on March 9, 1887, under the provisions of the act of March 3, 1875.

The award of said lands, however, was expressly made subject to all valid existing rights of third parties.

In passing on the application filed by the mayor of Aberdeen, hereby returned for action, you will consider and pass upon the alleged rights of said railroad company in the premises.

APPLICATION FOR SURVEY.

CIRCULAR.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August 7, 1895.

To United States Surveyors-General and Registers and Receivers of United States District Land Offices.

GENTLEMEN: The circular of this office dated June 24, 1885, relative to surveys under the provisions of section 2401 Revised Statutes of the United States, and the acceptance by receivers of public moneys of certificates issued for deposits made under the provisions of said section, is hereby revoked, and the following substituted therefor:

1. The provisions of law governing such surveys and the issue and application of certificates of deposit on account thereof, are sections 2401, 2402, and 2403, as amended by the act of August 20, 1894.

Section 2401.—(As amended by act of August 20, 1894.)

When the settlers in any township not mineral or reserved by the government, or persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof, or when the owners or grantees of public lands of the United States, under any law thereof, desire a survey made of the same under the authority of the surveyor-general and shall file an application therefor in writing and shall deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey, together with all expenditures incident thereto, without cost or claim for indemnity on the United States, it shall be lawful for the surveyor-general, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with law, to survey such township or such public lands owned by said grantees of the government, and make return thereof to the general and proper local land office. *Provided*, That no application shall be granted unless the township so proposed to be surveyed is within the range of the regular progress of the public surveys embraced by existing standard lines or bases for township and subdivisional surveys.

Section 2402.—The deposit of moneys in a proper United States depository, under the provisions of the preceding section, shall be deemed an appropriation of the sum so deposited for the objects contemplated by that section, and the Secretary of the Treasury is authorized to cause the sums so deposited to be placed to the credit of the proper appropriation for the surveying service; but any excesses over and above the actual cost of the surveys, comprising all expenses incident thereto for which they were severally deposited, shall be repaid to the depositors respectively.

Section 2403.—(As amended by the act of August 20, 1894.)

Where settlers or owners or grantees of public lands make deposits in accordance with the provisions of section twenty-four hundred and one, as hereby amended, certificates shall be issued for such deposits which may be used by settlers in part payment for the lands settled upon by them; the survey of which is paid for out of such deposits, or said certificates may be assigned by indorsement and may be received by the government in payment for any public lands of the United States in the States where the surveys were made, entered or to be entered, under the laws thereof.

APPLICATIONS FOR SURVEYS.

2. The amended law authorizes applications for surveys by settlers, or by persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof, or by the owners or grantees of public lands of the United States under any law thereof.

SETTLERS' APPLICATIONS.

3. The law contemplates *bona fide* surveys upon *bona fide* applications by actual settlers. Settlers are persons who have attached themselves permanently to the soil. Nomadic persons and persons employed by others to make applications for surveys or to make alleged settlements for the purpose of acquiring a title to lands to be transferred to others are not settlers within the meaning of the law and are not lawful applicants under the provision allowing *settlers* to make deposits for public land surveys.

4. In the case of applications for surveys by settlers the body of such settlers in the township, the survey of which is desired, must join in the application. There must also be a sufficient number of settlers to show good faith and to indicate that the survey is honestly desired for the benefit of existing actual settlements as contemplated by the law.

5. Applications for surveys must be made in writing, and must designate, as nearly as practicable, the township to be surveyed, and state that the applicants are well acquainted with the character and condition of the land included in said township, and that the same is not mineral or reserved by the government. Such applications must also particularly describe the land sought to be surveyed, stating whether the same is cultivable, grazing, timber, desert, swamp, mountainous, rocky, &c., and the reasons why it is claimed to be non-mineral, and must state the number of settlers in the township, the character and duration of their inhabitancy of the land, the extent and value of their improvements, the uses made of the land, and the quantity under

cultivation. The situation of the township in respect to lines of public communication, and the progress of the settlement of the country should be described, and all facts and circumstances stated which will enable an intelligent judgment to be formed in respect to the propriety of making the survey applied for. These statements must be verified by affidavit, and applicants must also declare that their applications are made in good faith and not for the purpose of enabling a surveying contract to be obtained, nor at the instance or in the interest or for the benefit of any other person.

6. Townships within known mineral belts or known to contain mineral lands or lands reserved by the government are *not* surveyable under this system.

7. Surveys under the deposit system are authorized only where "the township so proposed to be surveyed *is within the range of the regular progress of the public surveys embraced by existing standard lines or bases for the township and subdivisional surveys.*" Under this provision of the law it will be held that only township exteriors and subdivisional lines are surveyable, and that the deposit system is not applicable to the survey of standard lines or bases.

8. Retracements, or the resurvey of lines previously surveyed, will not be deemed authorized under the deposit system.

9. Surveyors-general will critically examine all applications for survey, testing the accuracy and reliability of the statements made by their knowledge of persons and lands and the best information they can obtain. They will reject all applications not believed by them to be made in good faith, and upon truthful statements of fact.

10. When an application for survey is approved by the surveyor-general, he will transmit the same to this office, with the required proofs and his report upon the same, giving his reasons in full for the recommendation made. It is not believed that fictitious applications, or applications procured at the instance of surveyors or of operators in contract surveys, or applications designed to open unsettled townships to fraudulent entry can successfully be imposed upon vigilant and faithful officers. Surveyors-general will therefore be held to strict accountability for their recommendation of applications or contracts hereafter found to be fictitious, fraudulent, or speculative.

11. If the application is approved by this office it will be returned to the surveyor general with authority to furnish the necessary estimate to applicants, and, upon proper deposit being made, to enter into contract for the execution of the survey.

12. The surveyor-general will furnish applicants with two separate estimates, one for the field work and one for office expenses. He will estimate adequate sums, and the practice of requiring additional deposits to cover excess costs will be discontinued except when expressly authorized by this office.

13. Upon receiving such estimates, applicants may deposit in a proper United States depository (which should be in the land district in which the township to be surveyed is situated) to the credit of the Treasurer of the United States on account of surveying the public lands and expenses incident thereto, the sum so estimated as the total cost of the survey, including field and office work. If there be no public depository in the land district in which the lands are situated, the deposit may be made in an adjacent land district.

14. Surveyors-general will not, under any circumstances, accept, for the purpose of making the deposit moneys from applicants for surveys, either field or office work, but will instruct the applicants to deposit the amount in accordance with the instructions contained in preceding paragraph.

15. For convenience in the use and application of certificates, the deposit should be made in such sums as that no certificate shall bear a face value of more than two hundred dollars.

16. Applicants must be instructed fully as to the necessity of immediately transmitting the *original* certificate to the Secretary of the Treasury, the *duplicate* to the surveyor-general, and the retention of the *triplicate*.

17. When evidence of the required deposit is furnished in accordance with the foregoing regulations the surveyor-general will invite proposals for the survey by notice posted in his office for a period of thirty days, specifying the survey to be made, and stating that the contract will be let to the lowest responsible bidder (being a practical and reliable surveyor) at rates not exceeding those established by law for surveying the public lands. A copy of such notice will also be transmitted by the surveyor-general to the register and receiver of the land district in which the township to be surveyed is situated, and it shall be the duty of registers and receivers to post such notices conspicuously in their office.

18. The surveyor general will prepare a contract with the accepted bidder, and transmit the same to this office for approval in the usual manner.

19. Triplicate certificates of deposit are receivable from the settlers making the deposits in part payment for the lands settled upon by them, the surveying of which is paid for out of such deposits.

20. The triplicate certificates may be assigned by indorsement and when so assigned may be received in payment for any public lands of the United States entered or to be entered under the laws thereof in the States in which the lands surveyed for which the deposit was made are situated.

21. Such certificates hereafter issued will not be regarded as assignable or receivable until the township for the survey of which the deposit was made has been surveyed, and the plat thereof filed in the district land office.

22. Where the amount of a certificate or certificates is less than the value of the lands taken, the balance must be paid in cash.
23. Where the certificate is for an amount greater than the cost of the land, but is surrendered in full payment for such land, the receiver will indorse on the triplicate certificate the amount for which it is received, and will charge the United States with that amount only.
24. There is no provision of law authorizing the issue of duplicate certificates for certificates lost or destroyed.

EXCESS REPAYMENTS.

25. Where the amount of the deposit is greater than the cost of the survey, including field and office work, the excess is repayable upon an account to be stated by the surveyor-general.
26. The surveyor-general will in all cases be careful to express upon the register's township plat the amount deposited by each individual, the cost of survey in the field and office work, and the amount to be refunded in each case.
27. Before transmitting accounts for refunding excesses the surveyor-general will indorse on the back of the triplicate certificate the following, "\$—— refunded to ——, by account transmitted to the General Land Office with letter dated ——," and will state in the account that he has made such indorsement. Where the whole amount deposited is to be refunded the surveyor-general will require the depositor to surrender the triplicate certificate, and will transmit it to this office with the account.
28. No provision of law exists for refunding to other than the depositor, nor otherwise than as referred to in the preceding sections.

ASSIGNMENTS.

29. Certificates "may be assigned by indorsement." The indorsement required is that the person in whose name the deposit is made shall write his name on the back of the triplicate certificate.
30. When there are several parties to, or assignees of, one certificate, the register and receiver will make the proper indorsement on the triplicate certificate, showing the satisfaction of the pro rata share of each party interested. They will make the same notes on the register's certificate of purchase and the receiver's original and duplicate receipts.
31. When the entire amount of a certificate is not satisfied at the same time, the triplicate should be retained by the receiver until satisfied. But such certificate should as far as practicable be satisfied during the current quarter.
32. Certificates are not receivable in payment of fees and commissions chargeable by registers and receivers under section 2238 Revised Statutes of the United States.

REGISTERS' AND RECEIVERS' RETURNS.

33. In their monthly cash abstracts the register and receiver will designate the entries in which certificates of deposit are used and the balance paid in cash, if any, noting on the certificates of purchase and receipt the manner of payment. The receiver in his monthly account-current will debit the United States with the amount of such certificates, and in his quarterly accounts will specify each entry with these certificates, giving number, date, amount for which received, by whom and with whom the deposit was made, and debit the United States with the same.

34. The receiver must write across the face of each accepted certificate the date of its receipt in payment of land, the number of the entry, and description of the tracts sold.

35. Certificates received in payment for lands sold must be forwarded once a month to this office, with letter of transmittal and abstract. (Form 4-543.)

36. Surveyors-general are directed to instruct their deputies that they must designate in the field-notes and plats of their surveys the location of each and every settlement within a township surveyed, whether permanent in character or not, together with the names of such settlers and their improvements, if any.

37. When no settlers are found in a township, the field-notes of survey must expressly so state, and any omission to describe the settlements and improvements, or the absence of one or both in the field-notes and plat, will be deemed a sufficient cause to infer fraud and the accounts of the deputy will be suspended until such omission shall have been supplied. A suspension of the commission of the deputy will in the mean time take place, and all the facts will be reported to this office for consideration and action.

38. In every case of a contract heretofore or hereafter approved which the surveyor-general has reason to believe was fraudulently procured, such contracts and the accounts thereunder must be immediately suspended and the facts reported to this office.

CERTIFICATES ISSUED PRIOR TO AUGUST 20, 1894.

39. Receivers of public moneys in accepting in payment for public lands, certificates issued for deposits made under the provisions of section 2401 (prior to the amendments of said section by the act of August 20, 1894), are guided by the following instructions:

40. The triplicate certificates representing such deposits, are receivable from the settlers making the deposits in part payment for their lands entered under the pre-emption and homestead laws and situated in the township the surveying of which was paid for out of such deposits.

41. The said triplicate certificates may be assigned by indorsements and when so assigned be received in payment for lands "entered by settlers under the pre-emption and homestead laws" of the United States in accordance with the provisions contained in the following paragraphs.

42. Triplicate certificates issued prior to the act of March 3, 1879, can be used only in payment for lands situated in the township the surveying of which was paid for out of such deposits.

43. Triplicate certificates issued subsequent to the act of March 3, 1879, and prior to the act of August 7, 1882, can be used in payment for lands in any land district.

44. Triplicate certificates issued on and after August 7, 1882, and prior to August 20, 1894, can be used in payment for lands only in the land district in which the surveyed township is situated, except when issued for additional deposits upon contracts entered into prior to August 7, 1882.

45. Triplicate certificates issued subsequent to the act of August 20, 1894, for additional deposits to cover costs of surveys under contracts entered into prior to August 20, 1894, can be used only in payment for lands "entered by settlers under the pre-emption and homestead laws" of the United States, and in conformity to existing law at the date such contract was made.

COAL CLAIMANT'S APPLICATIONS.

In addition to the rights of settlers, referred to in the foregoing portions of this circular, sections 2401, 2402, and 2403 U. S. R. S., as amended by the act of August 20, 1894, embrace provisions in favor of "persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof."

The coal land laws contained in sections 2347 to 2352 U. S. R. S., provide methods by which persons properly qualified may become lawfully possessed of coal lands even before the survey of the lands, and be entitled to enter the same after survey. For particular information in regard thereto, reference is made to Departmental circular of July 31, 1882, entitled "Coal Land Laws and Regulations Thereunder." Such parties, in cases where the tracts of which they are lawfully possessed are still unsurveyed, may, under said sections 2401, 2402, and 2403, as amended by act of August 20, 1894, apply to the surveyor general for the surveying district in which the lands are included, for a survey of the township or townships including the land according to the provisions of said sections. Such an application must be accompanied by the affidavit of the applicant or applicants substantially as prescribed for declaratory statements on page 7 of the said circular of July 31, 1882, corroborated by the testimony of two or more witnesses, in which the qualifications of the applicants, the character and location of the land, indicating the township or townships in which it is included as nearly as practicable, and other essential facts must be so

set forth as to satisfy the surveyor general that the case comes properly within the provisions of the law as above given. He will thereupon, if he approves the application, transmit the same to this office, with the required proofs and his report. Subsequent proceedings will be governed by the regulations as hereinbefore given under the head of "Settlers' Applications."

OWNERS OR GRANTEES' APPLICATIONS.

The same rights accorded to settlers and to persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof are extended also to "the owners or grantees of public lands of the United States under any law thereof," and substantially the same instructions will apply to the last mentioned class of cases, as those above expressed with regard to the other classes of cases. The applicants must produce with their applications proof of their ownership of the land to consist of their own affidavits, corroborated by witnesses, and such other proof as may be available to satisfy the surveyor general of the essential facts, including a showing of the location of the land, in what township or townships situated, as nearly as practicable, the statute making the grant, or other source of title, as well as the identity of the applicants, with the true owners or grantees.

The surveyor general, if he approve the application, will transmit the same to this office, with the proofs and his report, as provided for in the other classes of cases. In regard to subsequent proceedings, the instructions given under the head of "Settlers' Applications" will generally apply.

S. W. LAMOREUX,
Commissioner.

Approved:

WM. H. SIMS,
Acting Secretary.

OKLAHOMA TOWN LOTS—SETTLEMENT—OCCUPANCY.

L. B. SHAPLAND ET AL.

A portable business stand established in the street in front of a town lot, is not settlement upon, or occupancy of said lot.

Persons entering the territory of Oklahoma prior to the time fixed therefor are disqualified as applicants for town lots; and the improvement, or occupancy of such a person, or a certificate of right issued to him, invests him with no right to a town lot.

The possession and occupancy of the back part of a town lot, entitles the occupant to a deed for the whole lot, in the absence of any qualified prior occupant of said lot.

Acting Secretary Sims to the Commissioner of the General Land Office,
August 8, 1895. (E. E. W.)

STATEMENT.—In this case L. B. Shapland, W. B. Richmond and John F. Way are adverse applicants for deed to lot 3, of block 55, in

for a writ, and the same is granted, and you will certify all the proceedings in said cause to this Department that the same may be considered and such action taken as will do equity.

PRIVATE LAND CLAIMS.

CIRCULAR.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., September 18, 1895.

Registers and receivers of United States district land offices in the Territories of New Mexico, Arizona and Utah, and the States of Colorado, Nevada and Wyoming.

GENTLEMEN: Your attention is called to the provisions of sections sixteen and seventeen of the act of Congress approved March 3, 1891, entitled "An Act to establish a Court of private land claims and to provide for the settlement of private land claims in certain States and Territories" (26 Stats., 834), as amended by the act approved February 21, 1893 (27 Stats., 470).

As the object of said act is the final adjudication of all private land claims in the States and Territories aforesaid, so the object of said sections sixteen and seventeen is the final adjudication of that class of private claims, or "small holdings", therein described, and to furnish the means whereby title thereto can be perfected by the claimants thereof.

Section sixteen relates to "small holdings" situate in those parts of said States and Territories over which the township surveys had not been extended at the date of the passage of said act; and section seventeen relates to the same class of claims situate in township which had been surveyed at that time.

By section sixteen, the right to receive patent for the land occupied is recognized in any person, who has through himself, his ancestors, grantors, or their lawful successors in title or possession, been in the continuous, adverse, actual, *bona fide* possession of any tract of land which does not in itself, or in connection with other tracts so held by him, exceed one hundred and sixty acres, for twenty years next preceding the time when the survey of the township in which such tract is situate shall be made, and provision is made for the survey of such land, and the issuance of patent therefor; *provided* that no person shall be entitled to confirmation of, or to patent for, more than one hundred and sixty acres in his own right by virtue of this section. . .

By section seventeen, all persons who have been in the actual, continuous, adverse possession, through themselves, their ancestors, grantors, or those under whom they claim, of tracts of land not exceeding one hundred and sixty acres each, for twenty years next preceding the time

when the survey of the township in which the land is situate was made, are permitted, upon making proof of such possession, and of the further fact that they, or their ancestors or grantors, or those under whom they claim, became citizens of the United States by reason of the treaty of Guadalupe Hidalgo or the terms of the Gadsden purchase, to enter, without payment of purchase money, fees or commissions, such subdivisions, not exceeding one hundred and sixty acres, as shall include their said possessions; *provided*, that no person shall be entitled to enter more than one hundred and sixty acres in one or more tracts in his own right under the provisions of this section.

In order that these claims may be adjudicated, you will secure from the surveyor-general, as soon as a township containing such claims shall have been surveyed, a list of the claims therein, with the names of the claimants, and if possible their post-office addresses. In case of townships already surveyed, you should be furnished a list of those claims that have been filed with the surveyor-general, that conform to legal subdivisions, and where it is necessary to survey the claims, the list should be furnished you as soon as the surveys of said claims are approved.

When this information has been received, you will notify each of the claimants that he will be allowed ninety days to submit proof of his possession and occupation in accordance with the following instructions:

1. Each of the claimants under the provisions of section *sixteen*, who was in the actual, adverse, *bona fide* possession of his claim twenty years prior to the survey of the township in which the land is situated, and has so occupied and held the same, continuously, from that time on to the making of such survey, will be required to make affidavit to that fact; stating therein the character and origin of his claim, and the material facts relied upon to show such possession.

2. Each of the claimants under the provision of said section sixteen who was not in the actual, adverse, *bona fide* possession of his claim twenty years prior to the survey of the township in which the land was situated, but who bases his claim upon the actual adverse, *bona fide* possession of those under whom he holds, will be required to make affidavit to that fact; stating therein the name of the person so occupying the land claimed twenty years prior to such survey, and the name of each of his successors in such occupancy during the said period of twenty years; the respective periods, as near as may be, that the land was so held by each of such successive occupants; the material facts relied upon to show such possession during said period; and giving a complete history of his title to such claim, from the first of the occupants mentioned down to the present claimant.

3. Each of the claimants under the provisions of section *seventeen* will be required to make affidavit in accordance with the foregoing instructions 1 or 2, as the case may be, stating therein the additional facts necessary to show that he became a citizen of the United States

by reason of said treaty of Guadalupe Hidalgo or the terms of the Gadsden purchase, or that some former occupant or claimant of said land from whom he derived his title or possession, so became a citizen of the United States; and in the latter case, giving a complete history of the title to his claim from the ancestor or grantor so naturalized down to the present claimant.

4. If documentary evidence of the title of such claimants is in existence, such evidence or duly authenticated copies of the documents must be produced and filed by them.

5. Every material fact set forth in the claimant's affidavit, or necessary to the validity of his claim, not established by competent documentary evidence, must be substantiated by the affidavits of not less than two disinterested witnesses having a personal knowledge of the facts.

As the proof submitted must depend upon the character of the claim, no blank forms can be prepared applicable to all cases.

When such proof has been filed in your office, you will examine the same in each case, and if found sufficient, in your opinion, to establish the title of the claimant to the tract applied for, you will approve the same and issue a joint certificate of the form hereto attached, a supply of which will be sent you as soon as practicable.

These entries should be accounted for in a separate series, commencing with No. 1, and may be accounted for on any of your abstracts with the necessary change of heading to indicate the class of claims, and referring to the acts cited.

It will be noticed that section 17 of said act allows entry under said section without payment of purchase money, fees or commissions, and as section 16 does not provide for any payment entries will be allowed thereunder without fees, or commissions.

The proof required by these regulations must be made before one of you, or before one of the officers designated by the act of May 26, 1890 (26 Stat., 121).

Section 18, act of February 1, 1893, *supra*, limits the time of filing such claims with the surveyor-general to two years after the first day of December, 1892, and under this provision claims not filed, on or before December 1, 1894, should be rejected by you.

Very respectfully,

E. F. BEST,
Acting Commissioner.

Approved:

JNO. M. REYNOLDS,
Acting Secretary.

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